

THE DAYTON LEGACY AND THE FUTURE OF BOSNIA AND THE WESTERN BALKANS

HEARING BEFORE THE SUBCOMMITTEE ON EUROPE, EURASIA, AND EMERGING THREATS OF THE COMMITTEE ON FOREIGN AFFAIRS HOUSE OF REPRESENTATIVES ONE HUNDRED FIFTEENTH CONGRESS SECOND SESSION

APRIL 18, 2018

Serial No. 115–148

Printed for the use of the Committee on Foreign Affairs



Available: <http://www.foreignaffairs.house.gov/>, <http://docs.house.gov>,
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29–816PDF

WASHINGTON : 2018

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WEDNESDAY, APRIL 18, 2018

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON EUROPE, EURASIA, AND EMERGING THREATS,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:00 p.m., in room 2200 Rayburn House Office Building, Hon. Dana Rohrabacher (chairman of the subcommittee) presiding.

Mr. ROHRABACHER. I hereby call this hearing to order. Good afternoon and welcome to this hearing on the legacy of the Dayton Agreement and political situation in Bosnia and what portends to be for the Western Balkans. I suspect today's topic may be new to some of my younger colleagues. The horrific conflict of the 1990s and its underlying causes is something many of us hope had been resolved a long time ago, but here we are.

The issue at hand stems from the fundamental compromise within the 1995 Dayton Agreement. To end 3 years of war and genocide, Bosnia's democratic development and territorial integrity was balanced against the need to accommodate ethnic interests. For peace, this trade-off made sense. The time has come, however, not just for stability but for political reform as well, political reform that allows Bosnia to have a fully functional government, one that meets democratic standards.

Based on the Dayton Agreement, Bosnia is divided into two political entities, the Federation of Bosnia-Herzegovina, which in and of itself has been divided into ten cantons, and the Republic of Srpska—okay. I want to make sure I am pronouncing it Srpska. The three major ethnic communities, Bosniak, Serb, and Croats share power. Bosnia-Herzegovina is headed at the state level, for example, by a tripartite presidency, one for each of the ethnic communities. It is a complex and overlapping system where positions are allowed and allotted by affiliation of one of the three ethnic groups, sometimes through the exclusion of citizens who do not belong to any of the ethnic groups.

While this system secured in the group rights of one warring party for two decades of democratic change has resulted in a situation, however, where equal representation of an individual citizen is viewed as a threat to protecting the political equality between the ethnic groups, Bosniaks in the Federation, for example, may now make up 70 percent of that population. The electoral law set

up a scenario, however, where a representative of one community may be duly elected, but an ethnicity other than his own.

So the Constitutional Court of Bosnia found that this violated the equality between the ethnic communities set forth in the constitution and undercut key provisions of the electoral law. Because the political parties were unable to find a compromise solution to this within the required time frame, Bosnia is approaching a general election this October without election law in place. This has created a potential for a political crisis and hopefully that for the loss of life and conflict.

The current set of ethnocentric political parties and entrenched elites have regrettably been unable or unwilling to find a solution for the good of the country and its people. Given our country's history in involvement in the region and particularly our central role in brokering the Dayton Agreement, the United States has an ongoing responsibility to help Bosnians find a mutually agreeable and lasting solution. We cannot, however, just sit on the sidelines and expect the Europeans and the European Union to solve this. That is something we should have learned by now. Experience has shown us Europe often lacks the political resolve to lead, and active engagement now will lessen the likelihood of more challenging intervention later on.

We have two panels for today's hearing and first we will hear from our State Department and then a panel of private witnesses. So I thank all of you for appearing today and now I turn to my ranking member, Mr. Meeks, for his opening statement.

Mr. MEEKS. Thank you, Chairman Rohrabacher, for calling this hearing and continuing to focus our subcommittee's attentions on the Balkans. I am particularly excited about shining a helpful light on Bosnia where we are witnessing a country amble toward a constitutional crisis barring a solution. Additionally, I am grateful to have a veteran of our State Department here to testify. I always salute those in the State Department and the great work that they do for our country and they think sometimes it goes unrecognized, but I want to thank you for what you do.

I look forward to hearing about your recent trip to the region and key takeaways on the broader issues. It was an understanding by many here in Congress that the region was moving steadily toward the West and closer to the institutions that are markers for our democratic principles, NATO and the EU. In fact, just yesterday, the Commission backed EU accession talks for Albania and Macedonia. This is a very encouraging announcement, but the follow-through is what is tough.

Whereas, there was and is momentum in this direction, the progress has slowed and leaders are looking at playing the West off of Russia. Populations aren't as convinced of the benefits of NATO or EU membership as they once was and outside actors, namely Turkey and Russia, are increasingly interested and willing to insert themselves in a detrimental manner, thereby jeopardizing the investments that the United States has made toward the democratic peace.

The United States who helped broker that peace is nervously turning inwards, unfortunately, and the leaders in the region, however, underestimate the extent to which the United States' institu-

tions and people are committed to the goals of individual rights, democracy, and peace. By focusing on Bosnia and Herzegovina—

Mr. ROHRABACHER. You got it.

Mr. MEEKS [continuing]. Electoral framework and constitutions, Congress can help avert a crisis and keep perhaps and even use this opportunity to reinvigorate the push to a rules-based political system in Bosnia. The way it stands now and without sufficient attention from the West, the Bosnian elite are allowed to continue to drift toward this crisis. Worse, a haphazard fix to the legal gap can be used to cement the divide between the political economic elites and the constituent peoples.

The conundrum needs to be addressed. However, the malign actors outside of Bosnia and in the neighborhood are hardly waiting until the October elections to act. In the United States we sometimes want simple answers to very complex situations. We start afresh, move to new cities, go bankrupt, and try again. We sometimes misunderstand the role of history in much older cultures than ours. In Bosnia, it is impossible to separate the past from the present and the future.

The brave people, all constituent peoples, understand what risk there is to this political game of chicken. There are the seeds that need to be tended to and that need to be the vital force of the political solution. I believe there is a role for the United States here, first and foremost, in taking up responsibility for the consequences of Dayton and for our strategic interest in the region. We must honestly rethink the strictures of the Accords and how an immediate fix can lead to better governance in the region. And we can only be successful here, indeed, the region can only be successful if we do this in concert with our allies.

The EU and even some of its larger member states, significantly the U.K., have shown renewed interest in the region. As the co-chair of the EU Caucus and Ranking Member on the European Subcommittee, I want to harness that positive energy and use it to advance our common interests starting in Bosnia and spreading it throughout the region.

And again I thank all who are going to testify and thank you, Mr. Chairman, for having this hearing today.

Mr. ROHRABACHER. Thank you, Mr. Meeks.

Our first witness of the day is Matt Palmer, a senior Foreign Service Officer and currently Acting Deputy Assistant Secretary of State for Central Europe and the Western Balkans. He has completed tours in Serbia, Cyprus, and has worked for the National Security Council at the White House.

Let me just note I am deeply concerned along with a lot of other people that we just have acting deputy assistant secretaries of State rather than this administration having appointed permanent people to those positions, but we are very happy to have you with us. We know you are a pro.

So go right ahead. You have about 5 minutes and then we will open it to questions.

STATEMENT OF MR. MATTHEW PALMER, ACTING DEPUTY ASSISTANT SECRETARY, BUREAU OF EUROPEAN AND EURASIAN AFFAIRS, U.S. DEPARTMENT OF STATE

Mr. PALMER. Chairman Rohrabacher, Ranking Member Meeks, and members of the committee, thank you for inviting me to appear before you today to discuss the challenges that we see in Bosnia and Herzegovina and our strategy for addressing them. I would like to express my sincere gratitude to the House of Representatives and this committee for your interest in Bosnia and Herzegovina.

I recently returned from a trip to the region and I can tell that the people of Bosnia and Herzegovina share our desire to see their country integrated with the West. We have a long history of good relations with Bosnia and Herzegovina. It is a member of the Global Coalition to Defeat Isis, a solid partner on counterterrorism and a proactive counterpart in efforts to limit the spread of violent extremism.

The country is, however, facing its most serious challenges since the 1990s, which left unchecked could have serious consequences for Western Balkans, Europe, and the United States. There is a real risk that national elections in Bosnia and Herzegovina this fall could fail to produce a government unless political leaders can reach agreement on reforms to the country's electoral law. Without a government, the country could face a prolonged post-election crisis during which progress would stall on pressing objectives such as tackling corruption, strengthening rule of law, countering violent extremism, and furthering the country's Euro-Atlantic integration. Basic governmental responsibilities such as passing a budget would become impossible. Most importantly, such internal problems in Bosnia and Herzegovina open the door to malign actors such as Russia which is intent on sowing chaos in the region and thwarting Bosnia's Euro-Atlantic future.

To ensure that election results can be implemented, Bosnia and Herzegovina's political leaders must find compromises that balance the collective rights of the country's three constituent peoples, Bosniaks, Croats, and Serbs, with the individual rights of all citizens both of which are enshrined in the constitution. The tension between these principals has been reflected in a number of cases filed with the Constitutional Court of Bosnia and Herzegovina and the European Court of Human Rights. Current electoral reform efforts are aimed at finding balanced solutions consistent with the decisions of these courts.

The most pressing reform issue concerns elections to the upper chamber of Parliament known as the House of Peoples of the Federation of Bosnia and Herzegovina. In December 2016, the Constitutional Court ruled that the electoral mechanism to establish the House of Peoples was inconsistent with the constitution and gave the state Parliament 6 months to fix the election law. When Parliament failed to do so, the Court invalidated these sections of the law and in doing so effectively eliminated the legal basis for establishing the House of Peoples. Without a fully constituted House of Peoples, it will be impossible to form either the Federation government or the state level House of Peoples, the upper House of the Parliamentary Assembly.

The Constitutional Court of Bosnia and Herzegovina and the European Court of Human Rights have also ruled in numerous cases that constitutional provisions governing elections to the presidency are discriminatory. Under the current setup, anyone who is not from one of the three major ethnic groups is ineligible to run for President. Fixing this would require amending the state constitution, a time-consuming task that will require significant political will. We have seen no proposal that satisfactorily addresses this issue. Because of time constraints, we are urging the political parties to prioritize reforms related to the House of Peoples and hold off further consideration of the presidency until after the October elections.

The State Department is engaged at all levels in support of efforts to reform the electoral process. Over the last year, we have met regularly with the leaders of key political parties to encourage them to work together toward consensus. Ambassador Maureen Cormack and her staff at the U.S. Embassy in Sarajevo have led an electoral reform facilitation process since last October, bringing parties together to negotiate a mutually agreeable solution. I had the opportunity to meet with all three members of the presidency while in Sarajevo earlier this month as well as with other leaders from across the political spectrum.

We have also engaged international partners who support Bosnia and Herzegovina's Euro-Atlantic ambitions to discuss how to best advance electoral reform and promote rule of law. In addition to helping political leaders agree on electoral reforms, we are taking steps to shore up rule of law and stamp out corruption by pressing the government to accelerate reforms and providing targeted assistance. We are also urging political leaders and criminal justice institutions to demonstrate the political will and courage necessary to investigate, prosecute, and punish corrupt actors and the organized crime groups they protect far more aggressively.

We are working to spur economic growth by improving the business climate. A stable, prosperous Bosnia and Herzegovina that is integrated within the Western community of nations and is a strong partner on counterterrorism helps make America safer, is a better place for U.S. business, and will bolster peace, stability, and prosperity in the region. These goals are ambitious but we are committed to seeing a democratic, prosperous Bosnia and Herzegovina closely partnered with the United States in advancing our common interests.

Thank you very much and I would be happy to answer any questions that you might have.

[The prepared statement of Mr. Palmer follows:]

**Testimony by Acting Deputy Assistant Secretary of State Matthew Palmer
House Foreign Affairs Committee
Subcommittee on Europe, Eurasia, and Emerging Threats
“The Dayton Legacy and the Future of Bosnia and the Western Balkans”
April 18, 2018**

Chairman Rohrabacher, Ranking Member Meeks, and Members of the Committee, thank you for inviting me to appear before you today to discuss the challenges that we see in Bosnia and Herzegovina and our strategy for addressing them. I would like to express my sincere gratitude to the House of Representatives and this Committee for your interest in Bosnia and Herzegovina. I recently returned from a trip to the region, and I can tell you that the people of Bosnia and Herzegovina share our desire to see their country integrated with the West.

We have a long history of good relations with Bosnia and Herzegovina. It is a member of the Global Coalition to Defeat ISIS, a solid partner on counter-terrorism, and a proactive counterpart in efforts to limit the spread of violent extremism. The country is, however, facing its most serious challenges since the 1990s, which, left unchecked, could have serious consequences for the Western Balkans, Europe, and the United States.

Electoral Reform

There is a real risk that national elections in Bosnia and Herzegovina (BiH) this fall could fail to produce a government unless political leaders can reach agreement on reforms to the country's electoral law. Without a government, the country could face a prolonged post-election crisis, during which progress would stall on pressing objectives such as tackling corruption, strengthening rule of law, countering violent extremism, and furthering the country's Euro-Atlantic integration. There is considerable risk that corrupt actors would use the opportunity to undermine state institutions and further weaken the rule of law. Basic governmental responsibilities such as passing a budget would become impossible. Most importantly, such internal problems in Bosnia and Herzegovina open the door to malign actors such as Russia, which is intent on sowing chaos in the region and thwarting Bosnia's Euro-Atlantic future.

To ensure that election results can be implemented, Bosnia and Herzegovina's political establishment must find compromises that balance the collective rights of Bosnia and Herzegovina's three constituent peoples (Bosniaks, Croats, and Serbs) with the individual rights of all citizens of Bosnia and Herzegovina, both of which are enshrined in the constitution. The tension between these often opposing political systems principles has been reflected in a number of cases filed with the Constitutional Court of Bosnia and Herzegovina and the European Court of Human Rights. Current electoral reform efforts will need to be aimed at finding balanced solutions that are consistent with the decisions of these courts.

The most pressing reform issue concerns elections to the upper chamber of Parliament, known as the House of Peoples, of the Federation of Bosnia and Herzegovina. In December 2016, the Constitutional Court ruled that the electoral mechanism to establish the Federation House of Peoples was inconsistent with the constitution and gave the state Parliament six months to fix the

election law. When Parliament failed to do so, the court invalidated these sections of the law, and in doing so effectively eliminated the legal basis for establishing the House of Peoples. Without a fully constituted House of Peoples, it will be impossible to form either the Federation Government or the state-level House of Peoples, the upper house of the Parliamentary Assembly. In consequence, neither the Federation nor the state-level government would be able to adopt legislation.

The multiethnic town of Mostar poses a similar problem on a more localized scale. The state parliament failed to amend sections of the electoral law that the Constitutional Court had declared unconstitutional, so the court struck them down. As a result, Mostar has not held local elections since 2008.

The Constitutional Court of Bosnia and Herzegovina and the European Court of Human Rights have also ruled in numerous cases that constitutional provisions governing elections to the Presidency are discriminatory. Under the current setup, anyone who is not from one of the three major ethnic groups is ineligible to run for president. Fixing this would require amending the state constitution, a time-consuming task that will require significant political will. We have seen no proposal that satisfactorily addresses this issue. Because of the length of time needed to accomplish this, we are urging the political parties to prioritize reforms related to the House of Peoples and hold off further consideration of the Presidency until after the October elections.

The State Department has engaged at all levels in support of efforts to reform electoral processes. Over the past year, we have met regularly with the leaders of key political parties to encourage them to work toward consensus. Ambassador Maureen Cormack and her staff at the U.S. Embassy in Sarajevo have led an electoral reform facilitation process since last October, bringing parties together to negotiate a mutually agreeable solution. I had the opportunity to meet with all three members of Bosnia and Herzegovina's Presidency while in Sarajevo April 3-4, as well as with other leaders from across the political spectrum. We have also engaged international partners who support Bosnia and Herzegovina's Euro-Atlantic ambitions to discuss how to best advance electoral reform and promote rule of law in Bosnia and Herzegovina.

Addressing Challenges

These challenges are formidable, but we are and must remain active in helping Bosnia and Herzegovina to confront them. In addition to helping political leaders agree on electoral reforms, we are taking steps to shore up rule of law and stamp out corruption by pressing the government to accelerate reforms and providing targeted assistance. We are also urging political leaders and criminal justice institutions to demonstrate the political will and courage necessary to investigate, prosecute, and punish corrupt actors and the organized crime groups they protect far more aggressively. Additionally, we are working to spur economic growth by improving the business climate.

Conclusion

A stable, prosperous Bosnia and Herzegovina that is integrated within the Western Community of Nations and is a strong partner on counter-terrorism helps make America safer, is a better place for U.S. business, and will bolster peace, stability, and prosperity in the region. Political leaders must commit themselves to the deep reforms needed to make the country a success. We need to help them to make these necessary reforms and push back against Russian malign influence and other external threats. These goals are ambitious, but we are committed to seeing a democratic, prosperous Bosnia and Herzegovina, closely partnered with the United States in advancing our common interests.

Mr. ROHRABACHER. Well, thank you very much for that testimony today. What are the chances, where do you have us, are we going to avert a major crisis or is it a coin flip? Is it 50/50? Is it hey, we have it all straightened out, we are just now doing things underneath the radar screen?

Mr. PALMER. I don't want to underestimate the challenge, Mr. Chairman. This is a difficult set of negotiations that are ongoing between and amongst the parties in Bosnia and Herzegovina. I am reluctant to put a number on it.

Mr. ROHRABACHER. Well, let me put it this way. If you are over 50 percent you are optimistic, right? If you are under 50 percent you are pessimistic?

Mr. PALMER. Yes.

Mr. ROHRABACHER. What are you?

Mr. PALMER. For me, Mr. Chairman, I am committed to working as hard as we can to help these guys get across the finish line.

Mr. ROHRABACHER. Oh, that is a good answer there. That is political—

Mr. PALMER. In that case, sir, I am going to stop right there.

Mr. ROHRABACHER. All right. Do you really think that it is possible for them to give up this sort of ethnic organizational structure that we brought in, everybody brought in as part of the way to end the actual killing that was going on? Can we now drift away from that and is that possible?

Mr. PALMER. Chairman, I don't think that they need to give it up as such and I don't think that is what anybody is looking for out of this process or, really, what anybody thinks is realistic. The goal is to adjust and amend the electoral law in such a way to ensure that the balance between the collective rights of the constituent peoples, Bosniaks, Croats, and Serbs, and the rights of individual citizens of Bosnia, not all of whom belong to one of these three ethnic groups—

Mr. ROHRABACHER. Sure.

Mr. PALMER [continuing]. That that balance is struck appropriately in a manner that is consistent with the Bosnian Constitution, consistent with international norms, and with European law.

Mr. ROHRABACHER. Well, you know, something that has to be fine-tuned that much, it seems to me that it is very hard for us to fine tune things overseas. America is usually coming with a sledgehammer which is what we did during the Balkan War last time. We came in with a sledgehammer. We were bombing Belgrade for Pete's sakes. And I think that our heavy hand in that region helped end that mass of killing and I think we can be proud that we stood with our allies in Western Europe and accomplished that in saving a lot of lives. I don't know from what you are saying that what we are looking at right now whether or not we came up with a solution or just a stopgap proposal that people are trying to implement until the fighting starts again.

Let me ask you this. If fighting does break out in Bosnia, let's say, for example, would that spill over into the rest of the Balkans or would you think that would be able to be contained right in Bosnia?

Mr. PALMER. That is a complex hypothetical question, Mr. Chairman, and I am—

Mr. ROHRABACHER. Of course it is.

Mr. PALMER [continuing]. Reluctant to engage in hypotheticals. And at this point we see no immediate risk of violence in Bosnia.

Mr. ROHRABACHER. Okay.

Mr. PALMER. But I mean certainly our experience in the past has been that violence in any place in the Balkans has an immediate and negative effect on stability within its neighbors across the region. It would be a profound concern. Were that to be the case in Bosnia, I think that the risk of spillover of that violence into undermining overall regional stability would be significant.

Mr. ROHRABACHER. Well, sure. Yes, eventually what you have is, you know, your Croatians, you have your Serbians, and you have of course your Albanians there, and these people have, they are different religions. They have a huge history of conflict over centuries and I think that it would be naive to think that is going to be easy for us to just sort of hold hands and come up with a compromise that will prevent them to not kill each other. But we will see.

Could you tell me—and by the way, again I think we need to, as Congressman Meeks mentioned, we need to be proud of you folks who have been doing the bidding of the United States of America to try to be a peacekeeper in that area. There is nothing, I think, more honorable than being peacekeepers and peacemakers.

Mr. PALMER. Thank you, Mr. Chairman.

Mr. ROHRABACHER. But there is the yin and the yang. Are there negative forces? What about that we have the Chinese are now recognizable players in the area. We have the Turks and the Turks seem to be going in exactly the wrong direction. And now we have the Russians, okay. If you could like go into it very quickly, are these players being a positive influence or is this a drag? What is your analysis of these various things?

But also, by the way, we have to recognize that, you know, radical Islam is still around and that is something people are worried about. So what about those outside factors?

Mr. PALMER. Absolutely, Mr. Chairman, it is something we watch very closely. The outside actor who is of particular concern to us at this point in time is the Russian Federation and their goals. Not just in Bosnia and Herzegovina, but across the region are fundamentally at odds with our goals. We are working to help the countries of the Western Balkans integrate into European and Euro-Atlantic institutions. The Russians are working assiduously to sow distrust and discord. This is of concern to us.

It is a concern to us what it is that is happening at the state to state level and it is also of concern to us in terms of what is happening in terms of Russian disinformation, Russian support for groups in Bosnia and Herzegovina that are working to tear apart the social fabric of Bosnia and Herzegovina.

Mr. ROHRABACHER. So you think they are being, the Russians are playing a role of provocateur?

Mr. PALMER. I think that is a perfectly reasonable description, Mr. Chairman.

Mr. ROHRABACHER. Shocking, shocking. We will go back to maybe a second round with this witness.

And, Mr. Meeks?

Mr. MEEKS. Thank you. I am going to drop the Deputy Assistant Secretary. Let me ask this question.

Mr. PALMER. It is a mouthful.

Mr. MEEKS. There are certain Bosnian Croat political leaders, particularly those from the HDZ political party, who claim to speak on behalf of the entire Bosnian Croat community. Is that community really united in its views? I mean they are saying it, but is it really united in its views and do those living in Central Bosnia share the aims and the goals of those living in—I can't get this out of mouth—

Mr. ROHRABACHER. Herzegovina.

Mr. MEEKS [continuing]. Herzegovina?

Mr. PALMER. That is a complex question, Ranking Member Meeks. I would say that, you know, there is no group anywhere in the Balkans that is entirely homogenous in terms of their goals and aspirations, their political orientation, their understanding of their own self-interests so all of these communities are complex. We speak in shorthand and the shorthand mantra that we have for Bosnia is one country, two entities, three constituent peoples. I had that tattooed somewhere on the back of my hand so I don't forget.

But within those constituent communities you will find a wide spectrum of opinions. However, we do have duly elected leaders from these communities. We have political parties that through a competitive political process have come to the fore to represent the interests of their communities. And what we are trying to do at this point is to work together with these representatives of the constituent peoples in Bosnia and Herzegovina to try and find a path forward toward mutual agreement and that is our goal. We don't support any particular resolution, any particular set of electoral reforms. We do want to see electoral reforms that are robust, that are durable, that are consistent with Bosnia's constitutions and international norms and the rulings of the European courts given Bosnia's aspirations to eventually become a member of the European Union.

Mr. MEEKS. And let me ask this question which is particularly sensitive and enlightening to me. Given the history of us here even in the United States in trying to, when you have people of different ethnicities trying to live together living in the same communities—I am one of the product where one way we tried to overcome that and we are still trying to do it to a degree in the United States is integrate schools so that people are going to school together. They go in, they learn about one another, they understand that, you know, they have different ethnicities but they still have the same kind of blood and organs and everything, they are human beings.

What are we doing? Are we doing anything to try to help along to end segregation among students on ethnic lines and having them going to school together and things of that nature?

Mr. PALMER. Yes, Mr. Meeks. We are working through a variety of programs and assistance efforts and activities to promote tolerance, to create opportunities in particular for young people to interact, to ensure that the curriculums of the schools are to the extent possible stripped of the kinds of heated rhetoric that can pit neighbor against neighbor, something that we saw on too regular of a basis in the Balkans in the 1990s.

This is a challenging environment for this. The traditions in the Balkans, the political traditions are different than they are in the United States. We have a tradition of prioritizing the rights of the individual. In the Balkans the rights of individuals are also significant, but they also do have a degree of comfort and experience with collective rights, group rights that are a little bit alien to American political culture. And so what we are trying to help them do is to find a balance between this concept of collective rights, the rights of a community, the rights of a constituent people which are enshrined in the Dayton constitution, the Constitution of Bosnia and Herzegovina, to balance those collective rights against the rights of the individual and find a way for the society to work and function as smoothly and effectively as it can. It is a different tradition than the American tradition, but it is one that we feel can be entirely consistent with a democratic future for Bosnia.

Mr. MEEKS. Thank you. I know he says we are going to another round so, all right.

Mr. ROHRABACHER. Mr. Perry?

Mr. PERRY. First, Mr. Chairman, thank you and Ranking Member Meeks for allowing me unanimous consent to come in and sit in on the meeting. Secretary, good to see you. Last month I sent a letter to the Assistant Secretary Mitchell. Oh, and dobar dan to anybody in the crowd here.

Regarding the issue, the United States has significant investment and it has been 25, 26 years on now, and I think this is systematic of the Dayton Accord, which in my mind wasn't really supposed to last, you know, more than 20 years. I mean it was up to the country to come up with changes that more suited their circumstances and let the people and those citizens decide that. And I did get a response to my inquiry from Ms. Waters, and I suppose she was as descriptive as she could be, but it is pretty broad ranging and so a couple specific questions.

If the three parties can't come together with some agreement what are the range of options? Can it be delayed? Is that realistic? Can you put a—and I understand you are not making these decisions, but you must be hearing the discussions and things are looming and, you know, you just run out of time to implement some of this stuff. And as I recall, I mean when I was there we had an election and 2,500 parties, right, individual political parties or something along that line. If you imagine how unpleasant these elections here in the United States, imagine that there.

So, I am wondering what the other options are. I am also wondering about capabilities. Since, you know, a lot of the weapons were taken out of the country and so on and so forth, what are the capabilities of the different factions, you know, other than sowing discord, et cetera, or Russia and Turkey providing anything hard, so to speak, that could be used or, you know, is that available?

And then, finally, are there significant dates surrounding the election? Because I can't remember all this stuff, but it seems as I recall that in this country they seem to memorialize certain dates that are associated with infractions going to the past. And so if there are certain dates that come up around election time where certain infractions of the past occurred that might be an opportunity, unfortunately, to reignite tensions or sore feelings.

And so I just—and what is—I know I am giving you a laundry list here. Where does this issue fall on the State Department's priority list for Bosnia, because as Mr. Meeks talked about one school, two different, or two schools under one roof, I mean I am sure that is a priority, corruption remains a priority. There is a lot of priorities. But I am wondering where this falls in the priority for State as far as you know.

Mr. PALMER. Thank you for those questions, Mr. Perry. Let's begin at the top, I suppose, with this issue of what the alternatives are. And I would put to you, sir, that there is really no point where we stop working these issues. That at no point are we going to wash our hands of Bosnia and Herzegovina or are we going to say that this problem is simply too hard and we surrender.

Mr. PERRY. I am not implying that, but I am wondering if at some point where this is always an ongoing issue of constitutional provisions and the governance and so on and so forth but this I think at some point reaches crisis level. And I don't know at what point State Department considers it such, but I sent a letter last month so obviously I am already there.

Mr. PALMER. The crisis point that we are looking at, Mr. Perry, is the elections in the fall in October and the risk that these elections fail in the baseline responsibility of an election which is to produce a government. And if Bosnia doesn't have a government, you know, they can stumble along for some time with people in acting capacities with technical mandates. There is experience with this in that part of the world, but there comes a point where the failure to adopt a budget means that they don't have the money available to make the necessary expenditures and when basic services, and when you stop paying war veterans, when you stop providing pensions, when you stop collecting the trash, that is when people go out in the streets and that produces instability that is visible and dangerous to all.

So we would like to avoid getting to that point and the negotiations that we are supporting in facilitating in Sarajevo right now are aimed at helping the parties reach an agreement that will prevent that crisis. I can't tell you exactly when that will happen.

Mr. PERRY. I mean I appreciate that, but yet I haven't heard any other option other than we hope they get to a consensus which is—look, we are all hoping. I think everybody in the room is interested in that. But if they don't, what is the reality here?

Mr. PALMER. Sure. I think the answer to that, Mr. Perry, would be if they don't and they get to October and there is no government and you have this incipient crisis that you try again, right, and you try again with the pressures of the budget breathing down your neck. And when there is pressure on the political leaders to avert the kind of crisis, the kind of civil unrest—

Mr. PERRY. I know I have asked you a lot of questions and I am way over. So we will just continue the conversation, I hope.

Mr. ROHRBACHER. All right. Mr. Sires.

Mr. SIRES. Thank you, Mr. Chairman, for holding this hearing. I am looking at this political system of Bosnia-Herzegovina. I can't make heads or tails of it. It looks like the NCAA tournament bracketing.

Mr. PALMER. Yes, it is pretty complicated, sir.

Mr. SIRES. I mean, but can you tell me if the Dayton Accord needs to be reformed?

Mr. PALMER. Well, I think that what we are talking about here, Mr. Sires, is in fact reforming the Dayton Accords at the micro level. We are trying to make adjustments to the system that Dayton established to help the Bosnian political system fit more smoothly into the international system to accommodate international and European norms.

One of the big things that needs to get fixed in Bosnia is the method of selecting the presidency. The problem with that I think is pretty clear. If you are not a Serb and you are not a Croat or you are not a Bosniak, you cannot run for the presidency of Bosnia and Herzegovina. There is something fundamentally wrong with that and that shortcoming has been recognized in a number of decisions by the European courts fixing that, amending that. Finding a way to resolve that conundrum will require changing the constitution that is changing Dayton because the constitution is part of Dayton.

So yes, there will need to be changes. I would not argue that it is necessary at this point to consider wholesale changes. I wouldn't throw the whole thing out and start over again, but to work in making the immediate amendments and fixes and reforms that are necessary to make that spaghetti-gram more functional.

Mr. SIRES. And what are the prospects of joining the EU?

Mr. PALMER. Long term? Long term there is a process. It is going to take time. Bosnia has a lot of reforms that it needs to implement, reforms related to governance, reforms related to rule of law, reforms related to transparency, accountability, functionality; so it is our hope and expectation that the process of aspiring to be a member of the European Union, opening the negotiations, opening and closing the various chapters that are part of that accession process that that will help Bosnia make the reforms necessary to be more functional, to be more effective, to be more viable as a unitary state.

Mr. SIRES. In looking at this chart, the Central Bank, would that be the Treasury comparable to ours?

Mr. PALMER. No, there is a Central Bank separate from the Ministry of Finance. So I think it is probably closer to the Federal Reserve.

Mr. SIRES. Tough to make this out here.

Mr. PALMER. Bigger type helps.

Mr. SIRES. Okay, thank you.

Mr. ROHRABACHER. We will have time for a couple minutes more from each of the members. Let me just note that if this doesn't come about any faster than what we have seen in the last 25 years in terms of reaching compromises, it seems that your goal, that the goal you are outlining is that we are going to get everybody ready and we are going to put them into the EU and they are going to be in the EU. I don't think the EU is going to be around that long. So, I mean I hate to tell you this, but I will give you the honest assessment from here. I think the EU is on the way out.

And, however, I do think that it is possible that a new type of coalition is forming in Europe that will include, could go all the way down into the Balkans from what we consider Central and

what, Eastern Europe now with Poland and Austria, Czech Republic, Hungary, maybe Romania and Bulgaria, maybe Serbia, et cetera. That may be what you end up with when all is said and done. I don't know.

Do these people—let me ask you this. I am not an expert, although I have been there thanks to Joe and Shirley actually took me there once, but do Serbs and Croatians and the Albanians and like with the Kosovo, do they speak different languages? Can they talk to one another?

Mr. PALMER. The issue of language is intensely political in the Balkans, so Croats will tell you they speak Croatian. Bosniaks will tell you they speak Bosnian. Serbs speak Serbian. I understand them all. So they can speak to each other.

Mr. ROHRABACHER. All right.

Mr. PALMER. There is different words, there is different accents, but they are mutually intelligible for sure. Albanians are a different language all together. So it is not a Slavic language, it is unrelated to any of the other languages.

Mr. ROHRABACHER. And what percentage of the Bosnian population speaks that language?

Mr. PALMER. Of the Bosnian population that speaks Albanian?

Mr. ROHRABACHER. Yes, do they?

Mr. PALMER. It would be under one, I am pretty sure.

Mr. ROHRABACHER. So that is small.

Mr. PALMER. Very small minority.

Mr. ROHRABACHER. How many speak Croatian and is that different than Serbian?

Mr. PALMER. They are mutually intelligible, Mr. Chairman, so I don't know that we have a language count. I think if you were to do a census, and again the issue with the census is pretty politicized too, but the numbers who identify as Croat could be taken as a placeholder for the numbers who speak Croatian.

Mr. ROHRABACHER. Is there an ethnic divide here as well, meaning can someone see someone walking down the street and say ah-ha that is a Serbian or ah-ha that is a Bosnian or whatever?

Mr. PALMER. Almost certainly not, Mr. Chairman. There might be some differences of dress particularly for religious Bosniaks that would be identifiable, but in general, no. You can't just look at somebody and know what they are.

Mr. ROHRABACHER. It sounds like a hell of a project to try to get them to work together, seeing that if we can't see the differences but they feel it so strongly and that is fascinating. Well, thank you for the insights you have given us today. We of course wish you success.

And Mr. Meeks, do you have any other questions?

Mr. MEEKS. Well, I will just kind of ask one quick one. Do Serbia—

[Audio malfunction in hearing room.]

Mr. PALMER. Absolutely, Ranking Member Meeks, they do. I have spoken about this issue at length with senior decision makers in both Zagreb and Belgrade and both governments understand that they would stand to lose significantly from instability in Bosnia. That the challenges that Bosnia poses are not specific to Bosnia, they are region wide. And so there is considerable interest on

the part of the governments in Zagreb and the government in Belgrade in partnering with us, working together trying to help us move Bosnia closer toward a stable, prosperous——

Mr. MEEKS. Actually doing something to advance——

Mr. PALMER. They are working with us. I think there is more that we can expect from them and we have made that case in both Zagreb and Belgrade. Certainly Zagreb has a lot of influence over the leadership of the Bosnian and Croat community as Belgrade has a lot of influence over the Bosnian and Serb community and the Bosnian and Serb leadership, and we have encouraged them to use that influence constructively in pursuit of peace and stability.

Mr. ROHRABACHER. Go right ahead.

Mr. MEEKS. No, I just forgot because I just needed to say one thing, because, you know, the chairman is my good friend, et cetera, but there are times that we disagree on certain things. And I just want to say that whatever our disagreement is it will not be in the best interest of the United States if we don't have a strong EU. And I would hope that the EU will continue to be moving and thriving and folks are looking and pushing and going that direction. And I think that the EU nations are looking to work together to make sure because we didn't know how bad things were post-World War II. We have been much, it has been much safer and much better with a united Europe and we have to continue to focus and make sure that happens. So I just had to get that in there for the record.

Mr. PALMER. I share that hope and expectation.

Mr. ROHRABACHER. Successful. You can have an independent bank that dominates your economic system. Wonder who—we don't—anyway that is a whole other issue about who controls money supply and whether or not they—that that is something that should be done by people who are elected by the people of the country or whether that can just be independent. But that is a whole other issue that we will talk about in another hearing. There you go.

Again, thank you. Let me ask you one thing. So are the Serbs playing a positive role now in what you are talking about today in trying to find this peace or are they playing a negative role?

Mr. PALMER. I think that the government in Belgrade has the same goals and objectives that we have for Bosnia which is an integral, stable, prosperous country that functions. Do I think there is more that Belgrade can do to help us secure that goal? Yes, sir, I do. And we have been in discussions with President Vucic, Prime Minister Brnabic and others as to what it is that we would hope Belgrade would contribute to that effort.

Mr. ROHRABACHER. Okay.

And Mr. Perry, do you have a couple minutes that you would like to——

Mr. PERRY. Of course, Mr. Chairman. Thank you.

Mr. ROHRABACHER. Go right ahead.

Mr. PERRY. So getting back, Mr. Secretary, capabilities, if you will. Are there capabilities that exist that we need to be aware of from a military standpoint, from a police standpoint, or is it just going to be harsh language if there is discord?

Mr. PALMER. At this point, sir, we would not anticipate that this political challenge becomes a military challenge. This is not, Bosnia is not on the brink of war.

Mr. PERRY. That is good to know, but what are the capabilities?

Mr. PALMER. If you are thinking about just in terms of raw capabilities, there is certainly plenty of weapons that are sloshing around the Western Balkans and there have been for a long time. There is an army that is a unitary army. Bosnia only has one army. One of the great accomplishments post-Dayton was negotiating the reunification of the Bosnian army. In terms of—

Mr. PERRY. Does the Bosnian army include heavy weapons like tanks, army personnel carriers, air force?

Mr. PALMER. They do have some heavy weapons, artillery tanks, APCs. I think the air force is such, maybe a few helicopters.

Mr. PERRY. Okay.

Mr. PALMER. You know, there is also the police forces in Bosnia and Herzegovina which there are a myriad, and police forces in that part of the world are more heavily armed than police in the United States. So that is another issue to be aware of, to watch out for. The Ministry of Interior forces in Republika Srpska recently purchased several thousand automatic weapons, assault rifles.

Mr. PERRY. Where did they purchase those?

Mr. PALMER. They purchased from Serbia.

Mr. PERRY. From Serbia, and it is in accordance with the Dayton Accord, correct?

Mr. PALMER. It is not inconsistent with the Dayton Accords, but it is something that raised some eyebrows in Bosnia.

Mr. PERRY. Because it is not in the military but it is in the police force, but it—

Mr. PALMER. Police force, and people do remember from back in the '90s that the police fought.

Mr. PERRY. Right, which is the reason I asked the question. Okay, what about any significant dates surrounding the election that might be of import knowing that they memorialize atrocities and infractions time after time?

Mr. PALMER. There are an awful lot of those dates, Mr. Perry, and I can't off the top of my head think of any that would surround the dates of the elections in October, but they haven't announced those dates yet.

Mr. PERRY. Is that something the State Department considers to be mindful of, the dates, locations, et cetera, in this whole discussion? Or if not, and maybe it is just in my mind, but it just seems to me it was an important part of the culture in reinforcing some of these mindsets.

Mr. PALMER. That is certainly true, sir. And I think in terms of looking at when the Central Election Commission might actually set the date for the elections in October, no one is going to be more sensitive to those dates than the Bosnians.

Mr. PERRY. Right, right.

Mr. PALMER. So I think that we would work with the parties to ensure that the electoral process is not only held under conditions that are agreed by all, but that the process of moving ahead with the balloting is also as smooth and trouble-free as could possibly be. So we will be working with them closely on the ground. Our

Embassy is very sensitive to the nuances of Bosnian politics and pays very careful attention to things like significant dates.

Mr. PERRY. All right, Mr. Chairman, I yield back.

Mr. ROHRABACHER. How many people are in your Embassy?

Mr. PALMER. How many Americans? Mr. Chairman, I can't give you an actual number. I am going to have to get back to you with that. I will do a little bit of research and I will get you a hard number.

Thank you, Mr. Chairman.

Mr. ROHRABACHER. As our panel is sitting down I would like to thank Representative Laughlin that is and make sure I pronounce Joe DioGuardi as well for their help in making sure that we had a well-rounded group of witnesses. And I appreciate that very much to our two former members, Representative Laughlin of Texas and DioGuardi from New York.

[Recess.]

Mr. ROHRABACHER. Okay, we can hear it there. We have four witnesses to join us now for our second panel. First witness is Dr. Sasha Toperich, okay, a Senior Fellow and Director of Mediterranean Basin and Middle East and Gulf Initiative at Johns Hopkins University. He serves as the chairman of the organizing committee for the Bosnia-Herzegovina Vision 2020 project at the University Center for Transatlantic Relations.

We have—now you are going to have to correct me if I am wrong—Philippe Leroux—

Mr. LEROUX-MARTIN. Leroux.

Mr. ROHRABACHER. Leroux. Philippe Leroux-Martin, okay. He is the Director for the Rule of Law, Justice, and Security at the United States Institute of Peace. Prior to this he headed the Legal Department at the International Civilian Office in Kosovo and led the public law unit in the Office of High Representative in Sarajevo. He is the author of *Diplomatic Counterinsurgency: Lessons from Bosnia-Herzegovina*.

Then we have with us Shirley Cloyes DioGuardi who is my dear friend, but I am mispronouncing your last name I am sure. I have done that for years, okay. You have got it—and Joe, her husband Joe who served with us in the United States Congress from New York. And I say Congressman Laughlin, are you here? He was here a moment ago. Oh, way in the back. Thank both of you for your help in organizing this hearing.

Shirley is a Balkan Affairs Adviser to the Albanian American Civic League. She is a returning witness to this subcommittee. She has a long record of writing and speaking out on political developments in the region, particularly on the topic of how to bring a lasting peace to Kosovo. And I have appreciated their input and guidance over the years.

And then Kurt Bassuener.

Mr. BASSUENER. Bassuener.

Mr. ROHRABACHER. Say it again.

Mr. BASSUENER. Bassuener.

Mr. ROHRABACHER. Bassuener, okay, is the co-founder of the Democratization Policy Council, a global initiative for accountability and democracy promotion. He co-authored a recent report entitled,

Are we there yet? International impatience vs. a long-term strategy for a viable Bosnia.

So are we there yet? Okay, we are going to find out. He too has worked for the Office of the High Representative in Sarajevo, the Balkan Action Council as well the Balkan Institute.

So we welcome our witnesses. We ask that you try to keep your testimony down to 5 minutes. You can put whatever else into the congressional record, and then we will have some dialogue.

So, Doctor, you may proceed.

**STATEMENT OF SASHA TOPERICH, PH.D., SENIOR FELLOW
AND DIRECTOR OF THE MEDITERRANEAN BASIN, MIDDLE
EAST, AND GULF INITIATIVE, CENTER FOR TRANSATLANTIC
RELATIONS, THE PAUL H. NITZE SCHOOL OF ADVANCED
INTERNATIONAL STUDIES, THE JOHNS HOPKINS UNIVER-
SITY**

Mr. TOPERICH Thank you, Mr. Chairman. Chairman Rohrabacher, Ranking Member Meeks, members of the committee, thank you very much for inviting me today to testify. I will keep my remarks brief and I ask that my full testimony be entered into the record.

Today's hearing, Legacy of Dayton, Future of Bosnia-Herzegovina and the Western Balkans, could not come at a more critical time. In just 20 days, Bosnia-Herzegovina will pass a deadline by which it has to pass legislation to comply with the Constitutional Court to reform electoral law. There is no compromise political agreement in sight. Parliament and the Bosnian political leaders should be pressed by allies at home and abroad to pass the electoral law change before the October elections. The alternative to carry out the elections in October without the passing of the electoral law reform could bring Bosnia-Herzegovina into a constitutional and political chaos.

Also, for 8 years Bosnian political leaders failed to implement Sejdic-Finci, European Court of Human Rights verdict that would allow minorities such as Jews to be elected President. These changes are prerequisite for Bosnia-Herzegovina to join the European Union. Other citizens such as Ms. Zornic also won the lawsuits against Bosnia-Herzegovina as she was being found ineligible to stand for election to the House of Peoples and the presidency as she refused to declare affiliation with any constituent people, namely Bosniaks, Serbs, Croats, but simply wanted to run for the office as a citizen of Bosnia-Herzegovina.

Due to the political stalemate, citizens of city of Mostar have been deprived of voting rights for both 2012 and 2016 elections. This simply should not be case in 2018. The leaders in Bosnia-Herzegovina have developed a bad habit of ignoring court rulings they dislike and to attend to important issues at the very last moment and that often only when pressured by the European Union and the United States. Bosnia-Herzegovina must develop a new habit of respecting court judgments even if politically unpopular. Parties in Bosnia-Herzegovina need to reform the electoral law or we could face a crisis in the country and instability in the region. Simultaneously, they need to work on finding solution to all courts' verdicts in order to enable basic rights for all of its citizens.

Inactivity can lead Bosnia-Herzegovina into danger of political instability that will inevitably lead to regional instability which will only play into Russia to further pursue her agenda. Milorad Dodik, President of Republika Srpska, one of the two sub-entities in Bosnia-Herzegovina who is sanctioned by the United States, continues to deny genocide over 8,000 Bosnian Muslim in Srebrenica. Close to Putin, his continued separatist rhetoric remains to be the highest threat to Bosnia-Herzegovina and regional stability.

Given this, I would like to present the committee with three recommendations. Congress and the Trump administration should take a leadership role in finding a solution and strongly support our Embassy in Bosnia-Herzegovina effort that work closely with European Union in mediating positive solution to election law. It is encouraging that Wess Mitchell, our Assistant Secretary for European, Eurasian Affairs is now more engaged in the Balkans. The U.S. should reach out to our European partners and request them to follow U.S. sanctions on Milorad Dodik with a set of their own, as Dodik's separatist rhetoric continues to represent a serious threat to regional stability.

To counter Russia influence, the United States should work with its NATO partners to reach political decision and activate a NATO Membership Action Plan for Bosnia and Herzegovina as early as this July at the NATO's next summit in Brussels. This would also be an opportunity for Turkey to play a constructive role in advancing security and stability in the Western Balkans through NATO's institutions by helping bringing Bosnia-Herzegovina a step closer to the full NATO membership.

Activation of the MAP of Bosnia-Herzegovina would help reduce widespread corruption and would send a strong signal to political elites to stop interfering in justice system currently under their heavy influence and would reduce their elevated ethnic rhetoric with which they manipulate the masses time over again. Improving independence of judiciary system in Bosnia-Herzegovina is key to stopping political elites in using their mechanisms of power to prosecute business community leaders who hold different political views, often being racketeered by the politicians for not bowing to their pressures.

In closing, a strong democratic, multiethnic and Euro-Atlantic Bosnia-Herzegovina is in the United States' interest. American leaders should do all they can to help make this happen. Thank you.

[The prepared statement of Mr. Toperich follows:]

WRITTEN SUBMISSION

Sasha Toperich

Senior Fellow and Director of the Mediterranean Basin, Middle East and Gulf Initiative at the Center for Transatlantic Relations, Paul H. Nitze School of Advanced International Studies at Johns Hopkins University

Testimony Before the

House Committee on Foreign Affairs, Subcommittee on Europe, Eurasia, and Emerging Threats
April 18, 2018

Resolving Bosnia's Electoral Crisis

On 1 December 2016, the Constitutional Court of Bosnia and Herzegovina (BiH) ruled in the Ljubić Case that the BiH election law violated the constitutional rights of the constituent peoples (the Serbs, Croats, and Bosniaks) guaranteed by the Dayton Accords. The court declared that each constituent people should be able to elect its own representatives to the Federation House of the People in free and fair elections. In the current situation, members of one constituent people can elect the representatives of another constituent people (i.e., Bosniaks could elect Serb representatives to the Federation House of Peoples). The court also found that the same principle applies to the election of the members of the three-member Presidency and delegates to the country-level House of Peoples.

This case follows from a Constitutional court ruling from 2000 that declared that the equality of the three Constituent Peoples is the central and overarching principle of the Dayton Constitution.

The court ordered the BiH Parliament to pass election law reforms within six months. Parliament failed to comply with the court ruling. If Parliament does not act by May 8 to replace the struck-out text of the election law, the October 2018 general election risks being nullified, potentially throwing the country into political and governance chaos. However, parliament can still amend the law right up until the election, but that is a dangerous precedent that flies in the face of democratic norms.

The consequences of nullification include there being no fully functioning government and Parliament at both the country and federation (state) level, as well as the impact this will have, including: possible complete paralysis of the political system, internal constitutional crisis, blocking any future reform efforts, and a high risk for regional instability and outside interference, manipulation and destabilization by those who oppose the United States and European Union, especially Russia.

In parallel to this issue, the European Court of Human Rights has ruled multiple times that the BiH constitutional provisions regarding who can stand for, and be elected to, the state presidency, are incompatible with the European Convention on Human Rights. Specifically, the *Sajdić-Finci* judgment held that the ethnicity requirement for the office of president – that individuals must be either Serb, Croat or Bosniak – discriminates against citizens of BiH who do not identify themselves as a member of one of the three constituent peoples, such as Jews, Roma, or others that make up minority groups that are not part of

the Constituent Peoples. The ECtHR required BiH to amend the constitution to remove this discriminatory element in 2009, but several years later no progress has been made.

The European Union has always stated repeatedly that implementing the *Sejdić-Finci* ruling is a prerequisite for BiH making progress towards becoming a candidate for EU membership. These ECHR rulings should be implemented immediately after Bosnia and Herzegovina receives the EU candidacy status, and within the framework of the Dayton Peace Accord and the constituent rights of the three constituent peoples.

Other citizens, such as Ms. Zornić, also won a law suit against BiH, for being ineligible to stand for election to the House of Peoples (second chamber of the State parliament) and to the collective Head of State (the Presidency), as she refused to declare affiliation with any of the constituent people (namely Bosniaks, Croats and Serbs) but simply wanted to run as a citizen of BiH.

Also due to political stalemate, citizens of city of Mostar have been deprived of voting rights both in 2012 and 2016 election. This must not be the case for 2018.

Simply put: Bosnia and Herzegovina government must respect the Dayton Peace Accord and the Courts rulings. The rights of the Constituent Peoples and the rights of citizens and minorities must be protected as required by the law.

The failure by the parliament in Bosnia and Herzegovina to address important constitutional court rulings poses significant concern for the future democratic trajectory of the country and its commitment to the rule of law. This also puts Bosnia and Herzegovina's EU and NATO aspirations at risk.

This isn't just about fixing a problem to deliver one election. Solving this problem will make Bosnia and Herzegovina a stronger, more representative democracy that represents all of its citizens.

Current situation in Bosnia and Herzegovina regarding Electoral Law

As of today, there is no electoral reform proposal under consideration in the BiH Parliamentary assembly. There has been one proposal drafted by the Croat parties which passed the House of Peoples in July 2017, but it was struck down by Bosniak delegates, who have a majority in the House of Representatives. One Bosniak party introduced a proposal around the beginning of 2018, but this was also struck down on the same day as the Croat proposal. As a result, there are no proposals under consideration.

International Response

The international community, particularly the EU and US, have attempted to bring the various parties together to reach a compromise, but so far with little effect.

The Presidency issue relates to the legal requirement to ensure that 1) each of three members of Bosnia's presidency legitimately and distinctly represent one of the three different constituent peoples (from the Tjubić and other cases); and 2) the position can be held by any citizen of any ethnicity (from the Sejdić-Finci and other ECtHR cases). In short:

- a. Implementing the fix required by the Ljubić case has been demanded by the Croat and Serb leadership and can implement by legislation only.
- b. Implementing the fix required by the Sejdić-Finci case is a prerequisite for EU accession. The changes here require a constitutional amendment.

Without greater political leadership, there is a strong chance this current negotiating process could rapidly disintegrate to the benefit of external powers, namely Russia. The Russians are already preparing to seize on this and are pushing out anti-U.S. propaganda around the failure to reach a solution.

Consequence of Failure to Reform the Election Law

If the law is not amendment before the election, BiH would face the following consequences:

1. The October 2018 election will occur, but many of the results will be invalid.
2. The country will only have a partial government, with no ability to pass laws, including a law to fix this crisis. The BiH federation (one of the two sub-state entities that make up the country) will have no government or parliament.
3. Republika Srpska (the other sub-state entity) will have a full government. Its leader, Milorad Dodik is a close ally of Vladimir Putin, has been sanctioned by the United States, and has regularly called for Republika Srpska to succeed from the rest of BiH – this crisis may give him that excuse.
4. The path to NATO and the EU will be closed to BiH for the foreseeable future.
5. Neighboring Croatia and Serbia will likely be drawn into this crisis, hurting regional stability and Serbia's chances of joining the EU.
6. Russia will be able to take advantage of this instability to push their own agendas.
7. Instability could also increase the risk that Islamic extremists will use BiH as a transit route and base of operations.

Path Forward

There seems to be consensus that it is possible to implement the reforms to the electoral law related to the House of the People by legislation. However, implementing the Sejdić-Finci and other ECHR rulings cannot be done at this time without a constitutional amendment and there is not enough support in the parliament to pass an amendment. Changes to the electoral law related to the presidency that implement the Ljubić case, but not the ECHR rulings, can be achieved by legislation only, but, ideally, all changes to the presidency should be made at one time.

The political parties all agree that reforming the House of the Peoples' election law must happen, but there is not agreement on how to do this and no parties are offering new proposals. Several parties' red line is that election code for the Presidency must be reformed as part of this process, ideally to be in line with both the Ljubić case, Zornić and Sejdić-Finci.

This result will create a government that has true legitimacy to the people it is supposed to represent. Such a government would therefore also have the legitimacy to make changes to the constitution to not only implement long-ignored ECtHR rulings, but also make more fundamental and necessary changes to how the country is organized and governed.

- 1) Resolving the election issue is a key indicator of whether the rule of law and a true functioning democracy exists in Bosnia and Herzegovina.
 - a. Leaders in Bosnia and Herzegovina have developed a bad habit of ignoring court rulings they don't agree with and to attend to important issues at a very last minute, often only if pressured.
 - b. Bosnian leaders must respect the Dayton Peace Accords, the BiH Constitutional Court, and the European Court of Human Rights or they have no hope for NATO or EU membership.
 - c. Bosnia and Herzegovina must develop a new habit of respecting court judgments even if politically unpopular.

A band aid, half measure approach will not suffice. Both ECHR ruling in 2009, and the Constitutional Court's rulings in 2016 and 2017 striking down the unconstitutional provisions of the election law is very clear: any election reform must respect the rights of the Constituent People enshrined in the Dayton Agreement and must address fixes to the election law for both the House of the Peoples and the Presidency and to include implementation of "Sejdić-Finci" ruling.

Clearly, with the May 8 deadline looming, there is little time and lack of political will to address Sejdić-Finci and the Presidency, and in this light, fixing the House of Peoples and voting in the city of Mostar, a city that has been deprived of voting rights both in 2012 and 2016 elections, due to failure of political parties to implement the decision of the country's Constitutional Court, are essential.

Over 8 years now, political leaders in Bosnia and Herzegovina failed to implement ECtHR ruling. Youth of the country is leaving. Brain drain in Bosnia and Herzegovina is alarming. People feel hopeless and discouraged with lack of progress. The US should make it clear to political leaders who obstruct and procrastinate BiH transatlantic integrations that there will be serious consequences and the US should be ready to act and lead this reform as soon as Bosnia and Herzegovina receives the EU candidacy status.

Recommendations for the Committee:

Given this, I would like to present the committee with 3 recommendations.

- 2) Congress and the Trump Administration should take a leadership role in finding a solution and strongly support our Embassy in Bosnia and Herzegovina and the EU representatives in their joint effort to mediate a positive solution to the electoral law and other court verdicts. It is encouraging that Wess Mitchell, our Assistant Secretary of State for European and Eurasian Affairs is now more engaged in the Balkans.
- 3) The U.S. should reach out to our European partners and request them to follow U.S. sanctions on Milorad Dodik, with the set of their own, as Dodik's separatist rhetoric continues to represent a serious threat to regional stability.
- 4) To counter Russia influence the US should work with its NATO partners to reach political decision and activate NATO Membership Action Plan (MAP) for Bosnia and Herzegovina, as early as this July, at the NATO's summit in Brussels.

This would be also an opportunity for Turkey to play a constructive role in advancing security and stability in the Western Balkans, through NATO's institutions, by help bringing Bosnia and Herzegovina step closer to full NATO membership.

Activation of MAP for Bosnia and Herzegovina would help reduce wide spread corruption and would send a strong signal to political elites to stop interfering in justice system, currently under their heavy influence, and would reduce their elevated ethnic rhetoric with which they manipulate masses times and over again.

Improving independence of judiciary system in Bosnia and Herzegovina is key to stopping political elites in using their mechanisms of power to prosecute business community leaders who hold different political views, often being racketeered by the politicians for not bowing to their pressures.

America must devote its energy and influence to help Bosnia and Herzegovina reform the way its presidents and representatives are elected.

A strong, democratic, multiethnic, and Euro-Atlantic Bosnia and Herzegovina is in the US interest. American leaders should do all they can to help make this happen.

Mr. ROHRABACHER. Thank you very much.
Mr. Leroux-Martin?

**STATEMENT OF MR. PHILIPPE LEROUX-MARTIN, DIRECTOR,
RULE OF LAW, JUSTICE, AND SECURITY, U.S. INSTITUTE OF
PEACE**

Mr. LEROUX-MARTIN. Mr. Chairman, Ranking Member Meeks, and members of the subcommittee, thank you for the opportunity to testify today. My testimony will cover the following three questions: First, how Bosnia has arrived at the current electoral impasse; second, what solutions have been——

[Off-microphone comment.]

Mr. LEROUX-MARTIN. Of course. How Bosnia has arrived at the current electoral impasse; second, what solutions have been put forward; and third, what can we learn about the continued efficacy of the Dayton Agreement?

As far as the first question is concerned, Mr. Chairman, I think a useful way to understand the dynamic of the current electoral impasses in Bosnia today is to think of a complex, interconnected power grid in which a critical node is about to lose its energy supply. If we are unable to fix the supply of energy to this critical node in the next 6 months, other key components of the grid will be affected.

The current electoral impasse in Bosnia originates from one of Bosnia's two Federal entities and that is the Federation of Bosnia and Herzegovina. The Federation entity government has legislative branch composed of a House of Representatives and a House of Peoples. In December 2016, the Constitutional Court of Bosnia declared certain provisions of Bosnia's election law that were regulating the election of delegates to the House of Peoples of the Federation to be unconstitutional. The Parliamentary Assembly has to date failed to enact new provisions. This has led to a legal vacuum, and this legal vacuum is at the very center of the electoral impasse we are facing today.

Absent a solution, several components of Bosnia's governance structure could be paralyzed given that the House of Peoples plays a critical role in the formation of governments both at the entity Federation level but also at the state central level. Going back to my analogy, the Federation's House of Peoples is a critical node in Bosnia's systems of governance.

Moving on to my second point about the solutions that I put forward, Mr. Chairman, the Constitutional Court's decision reignited an intense competition between political parties in the Federation and has reopened the issue of the representation of Bosnian Croats in its governing structures. This competition has taken the form of a dispute over various gerrymandering proposals. Political parties have proposed amendments through discussions led by the European Union and the United States. The proposals have so far all failed as none have sought a genuine compromise.

Looking forward, I think the United States and EU should obviously remain very flexible vis-a-vis any potential solution, but I think an agreement on a solution should meet the following principles, and there are five of them. First, it should comply. Any solution should comply with the constitutional framework of Bosnia.

Second, it should have the political support necessary to engage, to ensure passage before the relevant legislatures. Third, it should not further undermine Bosnia's capacity to ensure that its electoral system complies with the European Convention for Human Rights. Fourth, it should ensure that the right to vote and the right to be a candidate for a seat in the Federation House of Peoples is guaranteed for all cantonal delegates belonging to a constituent people. And, finally, it should not further undermine Bosnia's governance structure.

Moving on to the last question about Dayton's efficacy, Mr. Chairman, it is clear that the current electoral impasse is another illustration of the deficiencies faced by the complex governance structure established at Dayton. It is true that the Dayton constitution is not perfect. It is worth remembering, however, that the Dayton Agreement is a peace agreement that was supported by the United States, the European Union, and Russia, to stop a brutal war. It reestablished freedom of movement throughout the country. It allowed more than one million persons who had been displaced by the war to exercise their right to return to their homes under the peace agreement.

Although progressing slowly and painfully, Bosnia is nevertheless progressing toward EU and NATO membership today. When compared to other recent peace processes, Dayton has been a clear success. Many voices have been suggesting a complete overhaul of Dayton over the last few years. I would caution that attempts to overhaul Dayton may be very hard to implement in reality. I think a more effective strategy would be to reform Dayton through a series of incremental agreements and in order to avoid any further weakening of the central state, the United States and the EU should state that only a united Bosnia with a stronger central level of government would be able to join the EU and NATO.

And, finally, to be successful I think the United States and the EU will need to ensure that both Serbia and Croatia play a positive role throughout this process. Thank you for the opportunity to testify. I look forward to your questions.

[The prepared statement of Mr. Leroux-Martin follows:]



United States Institute of Peace

**“The Dayton Legacy and the Future of Bosnia
and the Western Balkans”**

**Testimony before the House Foreign Affairs
Subcommittee on Europe, Eurasia, and Emerging Threats**

**Philippe Leroux-Martin
Director Rule of Law, Justice and Security
United States Institute of Peace
April 18, 2018**

Introduction

Subcommittee Chairman Rohrabacher, Ranking Member Meeks, and members of the Subcommittee, thank you for the opportunity to testify on the “Dayton Legacy and the Future of Bosnia and the Western Balkans.” Your attention to this issue is appreciated.

I testify before you today as the Director for Rule of Law, Justice and Security at the United States Institute of Peace, although the views expressed here are my own. USIP was established by Congress over 30 years ago as an independent, national institute to prevent and resolve violent conflicts abroad, in accordance with U.S. national interests and values.

I worked, earlier in my career, as the Head of the Public Law Unit of the Legal Department of the Office of the High Representative for Bosnia and Herzegovina (OHR) in Sarajevo. I also headed the Legal Department of the International Civilian Office (ICO) in Kosovo. My testimony is informed by this specific experience and perspective.

I have been asked by the Subcommittee to comment on the electoral impasse engendered by the decision of the Constitutional Court of Bosnia and Herzegovina to declare certain provisions of the current electoral law regulating the election of delegates to the Federation House of Peoples unconstitutional. My testimony will cover the following specific questions: (1) How Bosnia has arrived at the current electoral impasse? (2) What solutions have been put forward? and (3) What can we learn about the continued efficacy of the Dayton framework?

1. How Bosnia has Arrived at the Current Electoral Impasse?

Bosnia and Herzegovina is composed of a central state government (Bosnia and Herzegovina) and two Entities (the Federation of Bosnia and Herzegovina and the Republika Srpska). Its constitutional structure also includes the District of Brčko.

The Federation of Bosnia and Herzegovina, one of Bosnia and Herzegovina’s two Entities, is itself structured into a federal arrangement with a federal level of government and ten cantons. The federal level of government of the Federation of Bosnia and Herzegovina Entity includes an executive, legislative and judicial branch of government. The legislative branch is a bicameral body composed of a (1) House of Representatives and a (2) House of Peoples. The House of Peoples co-decides all legislation and protects the vital national interest of constituent peoples.

The current electoral impasse in Bosnia and Herzegovina concerns one of Bosnia’s two Entities – namely the Federation of Bosnia and Herzegovina. The impasse relates to legal provisions regulating the election of delegates to the House of Peoples of the Federation of Bosnia and Herzegovina.

The election of delegates to the Federation House of Peoples is regulated by two main legal sources:

- The Election Law of Bosnia and Herzegovina: a law from the central state government adopted by Bosnia and Herzegovina’s Parliamentary Assembly.

- The Constitution of the Federation of Bosnia and Herzegovina: Entity legislation providing for the organization of the Entity.

Elections are scheduled to take place across all levels of government in Bosnia and Herzegovina in October 2018.

The current impasse stems from decisions adopted by the Constitutional Court of Bosnia and Herzegovina in relation to the Election Law of Bosnia and Herzegovina. In December 2016, the Court declared that certain provisions of the Election Law of Bosnia and Herzegovina regulating the election of delegates to the House of Peoples of the Federation were unconstitutional (Ljubic case).

The Court requested the central state Parliamentary Assembly to amend the provisions of the Election Law of Bosnia and Herzegovina. The Parliamentary Assembly has, to date, failed to do so. The Court issued a non-enforcement ruling by which it repealed the disputed provisions of the Election Law of Bosnia and Herzegovina. This has led to a legal vacuum. This legal vacuum is at the center of the current electoral impasse.

Impacts of Legal Vacuum

The current legal vacuum has at least two major impacts:

1. *Potential paralysis of state and entity governments:* The House of Peoples has, in addition to its legislative responsibilities, a role to play vis-à-vis the formation of the government and legislature of both the Entity and the central state. It must, for example, approve the President of the Federation and the cabinet of the Federation. It is also responsible to select delegates to the House of Peoples of the central Parliamentary Assembly. Its delegates can also block a decision of the Presidency of Bosnia and Herzegovina. Absent a solution to this legal vacuum, several components of Bosnia and Herzegovina's governance structure could therefore be either paralyzed after October 2018.
2. *Political competition between political parties:* the Ljubic decision reignited an intense competition between political parties in the Federation and has reopened the issue of the representation of Bosnian Croats in its governing structures.

Political Competition

Political camps in the Federation Entity are seeking to redesign electoral rules and constituencies in ways that would benefit them. This gerrymandering competition can be summarized as a competition between two broad options:

- High Constituency Concentration: The Croatian Democratic Union party of Bosnia and Herzegovina (HDZ BiH) dominates the Bosnian Croat political scene in the Federation Entity. Its proposals for new election rules have sought to limit the power to elect Croat delegates to the Federation House of Peoples to cantons where Bosnian Croats form a

majority of the cantonal population. Such proposals have sought to significantly restrict – or exclude – the rights of Bosnian Croat delegates from cantons where Bosnian Croats are not in the majority of the cantonal population. HDZ BiH is opposed to electoral arrangements allowing, according to its perspective, an overrepresentation of Bosnian Croat delegates from cantons where they form a small fraction of the cantonal population.

The Bosnian Croats are in the majority in four of the ten cantons in the Federation Entity (Posavina Canton, Herzegovina-Neretva Canton, West Herzegovina Canton and Canton 10). All four cantons share a border with neighboring Croatia.

- **Low Constituency Concentration:** On the other hand, Sarajevo based parties [Party for Democratic Action (SDA), Alliance for a Better Future (SBB), Social Democratic Party (SDP), Democratic Front (DF)] oppose the demands of the HDZ BiH. They claim that the HDZ proposals seek to disenfranchise Bosnian Croat voters living in cantons where they are not in the majority. Those parties largely advocate for maintaining the status-quo. Some of them also fear that concentrating voting power in cantons contiguous to neighboring Croatia represents the first step of a broader strategy to establish a new Croat majority federal unit that could, akin to Republika Srpska, threaten to declare independence.

Some of them insist on the capacity of all cantons to participate in the election of Croat delegates to the House of Peoples. Some of the Sarajevo based parties also insist on using the prewar census of 1991 to calculate the number of delegates for each canton. The 6 cantons where Bosnian Croats are currently not in the majority had larger Bosnian Croat populations before the war. Using the 1991 census as a basis to elect delegates gives them a greater say in the election of Bosnian Croat delegates to the House of Peoples.

The two camps have not yet agreed on a solution. Most political parties tend to rely on rigid maximalist positions. Given that elections are scheduled for October 2018, it is harder for parties to consider and consent to difficult compromises at this point.

2. What Solutions have been put forward?

Several political parties have proposed various amendments. The proposals have all failed as none sought a genuine compromise. Certain proposals have been mostly examined in discussions led by the European Union and the United States. The range of proposals can be grouped into two broad categories:

- **Maximalist solutions:** By maximalist solutions, I mean solutions designed to serve the exclusive interests of a given political party. Examples of maximalist solutions include those seeking to concentrate voting power into the four majority Bosnian Croat cantons, or solutions suggesting to transform the House of Peoples in the Federation into a body vested with less power.
- **Compromise solutions:** By compromise solutions, I mean solutions based on common ground that do not encroach upon core interests of a given political actor. Examples of

compromise solutions include those seeking to add delegates to the House of Peoples to address claims of overrepresentation or proposals to qualify the capacity of cantons with small Bosnian Croat population to elect Croat delegates.

The international community should remain flexible vis-à-vis a potential solution. An agreement on a solution should meet the following principles:

1. The solution should comply with the constitutional framework of Bosnia and Herzegovina.
2. It should enjoy the political support necessary to ensure passage before the relevant legislatures.
3. It should not further undermine Bosnia and Herzegovina's capacity to ensure that its electoral system complies with the European Court for Human Rights.
4. It should ensure that the right to vote and to be candidate for a seat in the Federation House of Peoples is guaranteed for all cantonal delegates belonging to a constituent people.
5. It should not further undermine Bosnia and Herzegovina's governance structure.

Failure to reach agreement

Should the parties fail to reach agreement before the October elections, additional avenues could be considered to enact a solution.

Some have argued that the Election Commission of Bosnia and Herzegovina could step in. The Commission is mandated by law to determine, for the upcoming elections, new numbers of delegates for the Federation House of Peoples on the basis of the 2013 census. While the Commission could play a role in solving the impasse, there are significant risks attached to this solution. The legal basis for the Commission to impose a comprehensive compromise in line with Bosnia's constitutional framework is fragile. A solution imposed by the Election Commission is likely to face new legal challenges. It would also politicize a critical domestic institution.

Some have also suggested that the High Representative for Bosnia and Herzegovina enact a solution on the basis of his powers under the Dayton peace agreement and relevant resolutions of the United Nations Security Council. There are risks attached to this course of action as well. Parties will likely challenge the legality of the measure enacted. It will also send a signal to the European Union that Bosnia's representatives are unable to organize their own elections.

This may be, nevertheless, the best course of action. It will prevent a dangerous politicization of the Election Commission. The potential impact on Bosnia's EU membership aspirations must be measured against the fact that Bosnia and Herzegovina is not yet a candidate country and that, according to the European Commission's newly released strategy for the Western Balkans, its membership perspectives would materialize only after 2025.

Any solution enacted by the High Representative would need to meet the principles suggested above for a negotiated solution. It should also be made clear that the solution would be effective

until parties enact a permanent solution. It should also be strongly supported by the members of the Peace Implementation Council, including the United States and the European Union.

3. What can be learned about the efficacy of the Dayton Framework?

The current electoral impasse illustrates some of the dysfunctionalities generated by the particularly complex constitutional architecture agreed upon at Dayton. While most democracies must contend with intense political competition and temporary dysfunctions, Bosnia and Herzegovina is different.

Its difference lies in the fact that while political parties fight over resources, economic growth, and electoral tactics just like in any other country, some parties also use political, administrative and legal means to pursue wartime objectives that directly challenge the very foundation of the democratic space established by the Dayton agreement.

Calls by ultranationalist factions for Republika Srpska to secede from Bosnia as well as calls for majority Bosnian Croat cantons to control the Federation and the central level of government through a constellation of constitutional and electoral guarantees are highly destabilizing for Bosnia and Herzegovina.

The Dayton agreement has been criticized since its entry into force. Such criticisms must be measured against the fact that the Dayton agreement is a peace agreement that was supported by the United States, the European Union and Russia to stop a brutal war in a country inhabited by a majority Muslim population. It imposes obligations upon Serbia and Croatia to respect the sovereignty and territorial integrity of Bosnia – a country they actively sought to annex just two decades ago. The agreement allowed for peace and stability to return to Bosnia. It reestablished freedom of movement throughout the country. It allowed more than 1 million persons who had been displaced by the war to exercise their right to return under the peace agreement. The World Bank expects Bosnia's GDP to grow at a rate of 3.2% in 2018. Although progressing slowly and painfully, Bosnia is nevertheless progressing toward EU and NATO membership.

If we compare the Dayton agreement to other peace processes, there is little doubt that Dayton is a success.

Calls for a comprehensive overhaul of Dayton have become common through the years. While pointing to serious problems in the design of Dayton, such calls must be measured against difficult realities:

1. Any change to the Constitution established at Dayton needs to meet the requirements of the amendment procedure set by the Constitution. These changes must be supported by a wide spectrum of interests. If parties find it difficult to agree to legal provisions governing the election of delegates to the House of Peoples of the Federation Entity, they are likely, at the very least, to face similar difficulties while assessing a comprehensive overhaul of the Dayton constitutional framework.
2. There is currently no defined alternative constitutional structure that would be supported by all parties.

3. The incentives for change are currently weak. The prospect of EU membership has been, on its own, unable to bring parties to agree to significant reforms over the last decade.

As other regional powers are exercising increasing levels of influence in the region, there is still a chance for the EU and the United States to unite forces to help Bosnia and Herzegovina address some of the more problematic aspects of the Dayton constitutional structure. A common strategy would need to achieve the following:

Clear objectives: Key EU and NATO members states should clearly define that only a united Bosnia will be eligible to enter into the EU and NATO. Moreover, in order to meet the obligations of EU membership, Bosnia and Herzegovina should have an efficient state level government which, in addition to its current responsibilities, will be vested with additional responsibilities necessary to effectively and efficiently implement the European *acquis communautaire*.

Neighboring countries: Serbia's access to Euro Atlantic organizations must be contingent upon it playing a positive role in Bosnia. Croatia's standing and influence within the European Union and NATO must be contingent upon the same.

Reform by incremental agreements: Reforming Dayton is possible through incremental agreements. In the past, assertive international support has led to agreements to amend the Constitution to recognize the existence of Brčko District. International involvement has also led to agreements between the Entities to transfer responsibilities to the central state in the field of defense, taxation or justice. These agreements must include groups of Bosnian citizens that do not belong to the current political parties.

Maintaining stability: The EU and the United States must prevent a return to instability. They can do so by continuing to support the mandates of the High Representative and the international military presences in Bosnia. The EU integration process has proven to be destabilizing for Bosnia and Herzegovina. The accession process demands significant changes in the current allocation of power in a country that is particularly sensitive to such demands. International mandates to maintain stability in Bosnia are an essential insurance policy to accompany Bosnia until it secures its place firmly in Europe and NATO. The current international military presences should also be encouraged to base some of their operations in the Brčko District to contain the secessionist aspirations of Republika Srpska president Milorad Dodik.

Recommendations

To address current electoral impasse:

- Support the joint EU and United States efforts to facilitate a political settlement.
- Call upon the governments of Serbia and Croatia to actively support a solution in Bosnia and Herzegovina.

- Encourage active U.S. diplomatic and congressional pressure to the heads of the political parties in Bosnia and Herzegovina by expressing support for an agreement based on the following principles:
 - The solution should comply with the constitutional framework of Bosnia and Herzegovina.
 - It should enjoy the political support necessary to ensure passage before the relevant legislatures.
 - It should not further undermine Bosnia and Herzegovina's capacity to ensure that its electoral system complies with the European Court for Human Rights.
 - It should ensure that the right to vote and to be candidate for a seat in the Federation House of Peoples is guaranteed for all cantonal delegates belonging to a constituent people.
 - It should not further undermine Bosnia and Herzegovina's governance structure.
- Support the enactment of a solution by the High Representative should the parties fail to reach agreement on time.

To address concerns about the efficacy of the Dayton agreement:

- Invite the U.S. government to design and implement a common strategy with key members of the European Union and NATO member states.
- Invite the U.S. government and key EU member states to set the conditions under which Bosnia and Herzegovina will be allowed to join NATO and the EU.
- Support the establishment of an incremental constitutional reform process shepherded by the EU and the United States.
- Invite authorities responsible to manage the international military presences in Bosnia and Herzegovina to base some of their operations in Brčko District.
- Continue to support the authorities of the High Representative until Bosnia and Herzegovina has secured its membership in the European Union and NATO.

Thank you for your continued focus and attention to this critical issue. I look forward to answering your questions.

The view expressed in this testimony are those of the author and not the U.S. Institute of Peace.

**STATEMENT OF MRS. SHIRLEY CLOYES DIOGUARDI, BALKAN
AFFAIRS ADVISER, ALBANIAN AMERICAN CIVIC LEAGUE**

Mrs. CLOYES DIOGUARDI. Thank you, Mr. Chairman. I will submit my remarks for the record and make a summary now and I would also like to submit two pieces for the congressional record. One, a piece on ethnic politics in the Western Balkans focusing on Bosnia and Macedonia, by my colleague Roland Gjoni, expert in international law and a senior fellow in political science at the University College Dublin, and then the Albanian platform in Macedonia which I will refer to later.

Mr. ROHRBACHER. Those items will be included in the record, without objection, as will the extension of remarks will also be included.

Mrs. CLOYES DIOGUARDI. Thank you, Mr. Chairman.

While the Dayton Accords ended the war in Bosnia in 1995, it did not resolve the Balkan conflict. The House Committee on Foreign Affairs made a very serious effort to reveal the realities of Slobodan Milosevic's 10-year occupation of Kosovo and genocidal march across the Balkans which ultimately claimed at least somewhere between 100,000 and 200,000 lives and displaced four million during the Bosnian War. Under pressure from your committee, the Clinton administration finally initiated NATO airstrikes against Serbia in March 1999 as we know to bring an end to the war in Kosovo begun in 1998 as a continuation of the Balkan Wars of the 1990s.

Nevertheless, the roots of the Balkan conflict remain unresolved to this day and the crux of the problem lies in the signing of the Dayton Accords. Why? Because U.S. Balkan Envoy Richard Holbrooke, then chief U.S. negotiator at Dayton, cast Serbian dictator and later indicted war criminal Slobodan Milosevic into the role of the peacemaker. And instead of a peace agreement that would have outlined the steps to restore Bosnia-Herzegovina to its pre-war reality as a society of multiethnic and multireligious harmony among Bosniaks, Croats, and Serbs, Dayton divided Bosnia-Herzegovina, as we have heard, into two entities with a weak Federal Government. And, incredibly, Milosevic was rewarded with the recognition of a previously nonexistent political entity called Republika Srpska, and it has left Bosnia-Herzegovina on the brink of being ungovernable ever since because Srpska blocks the Federal Government from functioning for the benefit of all Bosnian citizens.

The second reason why the roots of the Balkan conflict were not resolved at Dayton is rarely acknowledged by Western governments and foreign policy experts, namely that Milosevic agreed to arrive at the negotiations only if two conditions were met: That Albanians would not be allowed at the table and that Kosovo would not be part of the agenda. This set the stage for Milosevic's military attack on Kosovo in 1998.

And by the way he had always intended to carry out ethnic cleansing there before his troops invaded Bosnia in 1992, but it was actually former Congressman Joe DioGuardi, who I did not know at that time, and members of the Albanian American Civic League who were able to educate the U.S. Congress about Milosevic's plans, thereby placing the spotlight on Milosevic that led to his temporary exit from Kosovo.

Dayton's neglect of the Albanian issue is still a very live legacy and the West's historical appeasement of Serbia is the principal problem. Belgrade has resorted to provoking violence in Northern Kosovo, the area that it has controlled and manipulated financially and politically ever since Kosovo came under U.N. protection at war's end in the summer of 1999. Unless the United States stops taking a backseat to Europe and the Balkans, Serbia will be admitted to the European Union while simultaneously achieving what has always been its primary goal: The denial of Kosovo's sovereignty and the acquisition of Northern Kosovo and Republika Srpska.

The legacy of Dayton also includes the lack of reciprocity for Albanians in the Presevo Valley where they are second- and third-class citizens of Serbia while the Kosovo Serbs have the highest level of human and civil rights of any minority group, I would add, in Europe. And the legacy of Dayton also resulted in the constitutional and systemic oppression and discrimination of Albanians in Macedonia. It is Macedonia that I believe the U.S. Government must now focus on.

It is frequently forgotten that when the former Yugoslavia disintegrated, the Republic of Macedonia emerged as an independent state without violence in 1991 based on the cooperation of ethnic Albanians and ethnic Macedonians. Macedonia is the only country in the Western Balkans where no one ethnic group has a true majority. But the subsequent failure to bring equal human and civil rights to all ethnic groups in Macedonia led to armed conflict in 2001. To end the conflict, as we know, the EU and the U.S. Government entered into negotiations with the ethnic Macedonian and ethnic Albanian political leaders that resulted in the signing of the Ohrid Framework Agreement, which was supposed to achieve the equitable representation of all national groups in the state's institutions as well as the equitable distribution of resources. Seventeen years later, Ohrid implementation has stagnated in relation to the judiciary, law enforcement, military, intelligence, and fiscal decentralization, and ethnic Macedonian domination is constitutionally entrenched and yet to be addressed.

The current political crisis in Macedonia cannot be resolved short of grappling with the key Albanian grievances. Macedonia will never become a functioning democracy if it discriminates against 30 to 40 percent of its population—Albanians and other non-Slavs. But again, achieving ethnic equality now is at risk once more in Macedonia. In January 2018, the Macedonian Parliament twice passed the law making Albanian the country's second official language, which was mandated in an agreement between Zoran Zaev's SDSM party and the ethnic Albanian parties called the Albanian Platform and used it to form the new government.

Even so, as we speak, Macedonian President Ivanov, starting in January, twice vetoed it claiming that a second official language would threaten Macedonia's unity and territorial integrity. The Macedonian Constitution requires the passage of this law after two votes in favor, but this is yet to happen because Ivanov has declined constitutionally to sign the law, and he is now stoking ethnic tensions that may have domestic and regional implications. Ending discrimination against ethnic Albanians by providing equal oppor-

tunity for economical and social growth in areas where Albanians are ethnic majorities can dramatically reduce the possibility of future armed conflict.

The question remains whether the United States and the European Union will step forward to negotiate a timeline to achieve full equality of the Macedonian and Albanian communities before the country's admission to NATO. Especially in Macedonia, we witnessed a foreign policy approach in the U.S. Government for the past 20 years that focused on stability at all costs—as you have often pointed out, Mr. Chairman—instead of making conflict prevention and human rights the center of our engagement with the region. Hence, post-Dayton, the Balkan conflict is still unresolved. Thank you.

[The prepared statement of Mrs. Cloyes DioGuardi follows:]

Testimony

Shirley Cloyes DioGuardi

Balkan Affairs Adviser, Albanian American Civic League

House Committee on Foreign Affairs

Subcommittee on Europe, Eurasia, and Emerging Threats

April 18, 2018

“The Dayton Legacy and the Future of Bosnia and the Western Balkans”

While the Dayton Accords ended the war in Bosnia in 1995, it did not resolve the Balkan conflict. The House Committee on Foreign Affairs made a serious effort to explore and reveal the realities on the ground in Southeast Europe during Serbian dictator Slobodan Milosevic’s ten-year occupation of Kosova and genocidal march across the Balkans, which ultimately claimed more than 200,000 lives and left four million citizens displaced. Under pressure from your committee, the Clinton Administration finally initiated NATO airstrikes against Serbia in March 1999 to bring an end to the war in Kosova, which began in 1998 as a continuation of the Balkan wars of the 1990s. Nevertheless, the roots of the Balkan conflict remain unresolved to this day, and the crux of the problem lies in the signing of the Dayton Accords on November 1, 1995.

Why? Because US Balkan Envoy Richard Holbrooke, who was then chief U.S. negotiator at Dayton, cast Serbian dictator, and later indicted war criminal, Slobodan Milosevic into the role of the peacemaker. And instead of a peace agreement that would have outlined the steps to restore Bosnia-Herzegovina to its pre-war reality as a society of multiethnic and multi-religious harmony among Bosnian Muslims, Croats, and Serbs (at a level that many Western countries have yet to achieve), Dayton divided Bosnia-Herzegovina into two entities, with a weak federal government in an economically depressed nation. Incredibly, Slobodan Milosevic was rewarded with the recognition of a previously non-existent political entity called Republika Srpska. An entity created through Milosevic’s genocidal campaign in Bosnia, in effect normalized at Dayton the use of violence for political goals. And it has left Bosnia-Herzegovina on the brink of being ungovernable ever since, because Srpska blocks the federal government from functioning for the benefit of all of Bosnia’s citizens. This is the first reason why the United States and the European Union—if they do not want to see future armed conflict—need to revisit Dayton and create a new plan that will bring lasting peace, interethnic harmony, and political and economic sustainability to Bosnia-Herzegovina.

The second reason why the roots of the Balkan conflict were not resolved at Dayton is rarely acknowledged by Western governments and foreign policy experts. Namely, that Slobodan Milosevic agreed to arrive at the negotiations only if two conditions were met: that Albanians (the third largest ethnic group in the Western Balkans) would not be allowed at the table and that Kosova, forcibly occupied by Serbia since 1989, would not be part of the agenda. This set the stage for Milosevic’s military attack on Kosova in 1998. (Milosevic had always intended to carry out ethnic cleansing and genocide in Kosova even before his paramilitary and military troops invaded Bosnia in 1992, but former Congressman Joe DioGuardi and his Albanian

Americans supporters were able to educate the US Congress about Milosevic's plans, thereby placing the spotlight on Milosevic that led to his temporary exit from Kosova.

In the more than two decades since the Dayton Accords were signed, the unresolved roots of the Balkan conflict in Bosnia-Herzegovina and Kosova (and also in Macedonia) have converged. Dayton has created an unsustainable peace where states and ethnic groups are waiting for the next big geopolitical shift to continue their conflict. This can be seen most vividly in Serbia's double game of playing up to the West but continuing the arms race with Russian support in the hope of some new power constellation that would allow Serbia to carve out Srpska Republika and return to Kosova. (A canary in the mine signal was sent to the West in January 2017, when a Serbian train painted with Serbian flags, religious Christian Orthodox scenes, and the words "Kosovo is Serbian" in 20 languages departed Belgrade and headed for northern Kosova until it was stopped before it could arrive.)

Dayton and its aftermath were built on the premise that Belgrade is the center of the region which is the source of the historic Western appeasement policy towards Serbia. This has led the United States and the European Union to spend enormous energy for the past twenty years on democratizing Serbia, when in fact Belgrade is still run by authoritarian Milosevic leftovers that are paying lip service to the West and otherwise working for Russian interests in the region. Among other things, Serbia has established with Russia a so-called humanitarian center in Nish, close to the Kosova border, which the US State Department has identified as "a subtly disguised military base set up by the Krelim to spy on US interests in the Balkans."

Dayton's neglect of the Albanian issue is still a very live legacy, and the West's historical appeasement of Serbia is the principal problem. Instead of fulfilling Serbia's expansionist appetite, the international community should have required Serbia to recognize the independence of Kosova and accepted it into the European Union. Because it did not, and because five members of the European Union still do not recognize Kosova's independence, which became a reality in 2008, Belgrade has resorted to provoking violence in the northern part of Kosova, the area that it has controlled and manipulated financially and politically ever since Kosova came under UN protection at war's end in the summer of 1999.

While the international community pushed for the implementation of the "Ahtisaari plan," which made all state institutions in Kosova multiethnic, integrating the Kosova Serbs into the legislative, executive, and judicial branches of the Kosova government, no one ever tested Ahtisaari in Northern Kosova, and this has enabled Serbia to consolidate its control there. In the end and unless the United States stops taking a back seat to Europe in the Balkans, Serbia will be admitted to the European Union through a false demonstration of "neighborly relations" with Kosova (a requirement for admission to the EU), while simultaneously achieving what has always been its primary goal: the denial of Kosova's sovereignty and the acquisition of northern Kosova. In short, lasting peace and stability in the region will remain elusive. Dayton failed to accomplish what Croatian scholar Branka Magas foresaw in 1999, "Unless the process of the dissolution of Yugoslavia is allowed to be completed and the former Republic of Yugoslavia is dissolved into its component parts, thus setting Kosovo on a path to independence, it will be impossible to build a peaceful and democratic state system in Southeastern Europe." (*Bosnia*

Report 1999).

The legacy of Dayton also includes the lack of reciprocity for Albanians in the Presheva Valley, where they are second and third-class citizens of Serbia, while the Kosovo Serbs have the highest level of human and civil rights of any minority group in Europe today. The legacy of Dayton also resulted in the constitutional and systemic oppression and discrimination of Albanians in Macedonia.

It is Macedonia that I believe the US government now must focus on. It is frequently forgotten that, when the former Yugoslavia disintegrated, the Republic of Macedonia emerged as an independent nation without violence in 1991 based the cooperation of ethnic Albanians and ethnic Macedonians. Macedonia is the only country in the Western Balkans where no one ethnic group has a true majority. But the subsequent failure to bring equal human and civil rights to all ethnic groups in Macedonia led to armed conflict in 2001. To end the conflict, the European Union and the US government entered into negotiations with the ethnic Macedonian and ethnic Albanian political leaders that resulted in the signing of the Ohrid Framework Agreement. The Ohrid Agreement was supposed to achieve the equitable representation of all national groups in the state's institutions, as well as the equitable distribution of resources. Seventeen years later, the provisions related to the judiciary, law enforcement, military, and intelligence, along with fiscal decentralization, have yet to be implemented.

Time will not allow me to go into the details of the interethnic crisis that ensued. But suffice it to say that the political crisis in Macedonia cannot be resolved short of grappling with the key Albanian grievances (along with the grievances of other non-Slavs). This requires that Macedonia adhere to the agreement, known as the Albanian platform (which I am submitting for the record), that the leaders of three Albanian political parties and ethnic Macedonian Social Democrat leader Zoran Zaev used to form the new government in 2017. The Albanian Platform contains many of the fifteen provisions that were part of the 2001 Ohrid Framework Agreement.

Once more, achieving ethnic equality is at risk in Macedonia. In January 2018, the Macedonian parliament twice passed the law making Albanian the country's second official language, which was mandated in the agreement between Zoran Zaev's SDSM party and ethnic Albanian parties. Even so, Macedonian President Gjorge Ivanov twice vetoed it, claiming that a second official language would threaten Macedonia's "unity sovereignty, and territorial integrity." The Macedonian constitution requires the passage of this law after two votes in favor by the Parliament, but it has yet to happen.

The second most important component of the Albanian Platform is the decentralization of the federal budget. Ending discrimination against ethnic Albanians by providing equal opportunity for economic and social growth in areas where Albanians are ethnic majorities can dramatically impact reduce the possibility of future armed conflict. The question remains whether the United States and the European Union will step forward to negotiate a timeline to achieve full equality of the Macedonian and Albanian communities in Macedonia before the country's admission into NATO. Especially in Macedonia, we have witnessed a foreign policy approach in the US

government for the past twenty years that focused on stability at all costs, instead of making conflict prevention and human rights the center of our engagement with the region. Hence, post-Dayton, the Balkan conflict is unresolved.

As long as Albanians are denied the recognition that every other ethnic majority in the Former Yugoslavia has been granted, and as long as there is no change in the status quo of Western foreign policy, the Balkan conflict will not be resolved. The way forward should entail making human rights, anti-racism, and rule of law the linchpin of US and EU involvement in Southeast Europe. And so the time has come to ask the US government and the European Union what they really want. Do they want a whole, undivided, peaceful, democratic, and prosperous European Union, or a periphery of failed, aid-dependent societies that saddle it with economic and law enforcement responsibilities? To prevent a costly and potentially deadly conflict going forward, the West will have to rethink its diplomatic strategy and foreign policy in the Balkans, hopefully one that emphasizes conflict prevention and human rights, not stability at all costs.

Mr. ROHRABACHER. Thank you.

STATEMENT OF MR. KURT BASSUENER, CO-FOUNDER AND SENIOR ASSOCIATE, DEMOCRATIZATION POLICY COUNCIL

Mr. BASSUENER. Thank you, Chairman, Ranking Member, and members of this committee. I welcome this timely hearing which will draw overdue attention to a more than decade of negative trajectory in Bosnia-Herzegovina and the reasons for that. This an area in which the United States and the West have been deeply engaged for over two decades. And where we have a wide array of incentives and mandates that could be of utility, we need to understand why we got here to discuss this wider manner.

Essentially, the United States started to take a backseat and downshift its engagement in the region as a whole and particularly in Bosnia's case in about 2006 because there was an understanding that the carrots of EU and NATO membership were going to impel forward movement. So the only question at that point was in the common understanding was to question the velocity of forward movement. I think the events since 2006 demonstrate that is not the case.

So at its root the issue at hand is not a question of Croat rights and constituent peoples, rather, it is one of deeper incumbency burrowing and self-protection of entrenched elites and this is a manifestation of a far wider, broader, and deeper problem, longer running problem. Bluntly put, Bosnia-Herzegovina's political elite constitutes a political business, organized crime, media nexus across the ethnic spectrum. I am not picking on any particular group. But nothing—their primary incentives are can they keep what they stole, can they remain positioned to keep stealing, and can they remain unaccountable both politically and legally? This system allows them to do that. Nothing the EU can offer them is better than that which is why there hasn't been forward movement.

So while there is no shortage of culpability to go around across the full spectrum of Bosnia's political elites, the fact remains that the alliance between Republika Srpska's President Milorad Dodik and HDZ Bosnia-Herzegovina leader Dragan Covic has steadily eroded the progress achieved in the first decade since the war, at great taxpayer cost by the way, with the aim of effectively carving out secure ethnic fiefdoms of absolute control. This will ultimately lead to state collapse if it is not resisted, so it demands resistance.

The escalating challenge to Bosnia-Herzegovina's sovereignty that we have witnessed over the past decade has brought out the worst in Serbia and Croatia. They are both involved in Bosnia's internal politics to a degree that was not permitted for the first decade since after the war. In fact, all the nationalist agendas that were prevalent in the 1990s are operating without restraint because we are not restraining them anymore. We were the enforcer of the Dayton order. We have ceased to be the enforcer of the Dayton order. There are no rules because they are not being enforced. All the ingredients for organized violence or escalation of a violent inter-ethnic incident are there in terms of weapons. I could come back to that in the Q&A.

So there is a deep popular hunger for a rules-based political system in Bosnia-Herzegovina that is fully compatible with collective

protections and direct political representation which you don't have. Bosnians can't write their congressman because they don't vote for them on a territorial basis, they vote on a party list. So there is no accountability above the municipal level for anybody in Bosnia's political system.

So the strategic goal for the United States, EU, and our other Western allies on the Peace Implementation Council which enforces the Dayton Peace Agreement needs to be arriving at a governance system that allows for functional democratic representation, accountability, and good governance. This needs to be the post-election focal point of American foreign policy for which we need to be preparing now. So in very brief terms, what is to be done? One, the United States needs to fill the deterrent gap in Bosnia. There is no deterrent to violence right now. Not legally, because we don't have a foothold for it, but practically, the EU-operated deterrent force, which NATO used to do under our command up until 2004, is not suited to task. There needs to be American participation in a reinforced Chapter 7 deterrent for which we have the mandate—we don't need to ask anybody's permission—including troops in Brcko and Mostar prior to the October elections.

Second, we need to replace the moribund leadership of the Office of the High Representative and reinvigorate the international civilian enforcement of Dayton Peace Agreement with an American high representative. There is nothing in the Dayton Agreement or anything else that prevents that. That is a lack of political will. If there is Western unity it can happen. Second, on this particular issue of the Ljubic case and the Constitutional Court ruling, there needs to be an effort to try to arrive at a compromise prior to the elections, but recognition that might not happen. And by getting in on the security end at the front end we reduce the potential downside of not arriving in that compromise.

And third, we need to focus on the fundamental problem of why Bosnia is the laggard of the region which is a lack of accountable representative, democratic governance and this was the reason that there was popular unrest in 2014 and it may reemerge. Thank you very much for your time.

[The prepared statement of Mr. Bassuener follows:]

Written Statement for the Congressional Record
Kurt W. Bassuener, Co-Founder and Senior Associate of the Democratization Policy Council
House Foreign Affairs Committee Hearing: “The Dayton Legacy and the Future of Bosnia and the
Western Balkans”
Wednesday, April 18, 2018, 14:00hrs

Mr. Chairman, Ranking member, members of this Subcommittee, I welcome this timely hearing, which I hope will draw overdue attention to the more than decade of negative trajectory in Bosnia and Herzegovina. The fact that Bosnia, in which the West has been so deeply engaged for over two decades, and where we have a wide array of mandates and incentives, is going in the wrong direction at an accelerating pace demands an understanding of what – and the policies which – have brought the situation to this simmering crisis stage.

It is apropos that this hearing makes Bosnia and Herzegovina (BiH) the focal point for a look at “The Future of the Western Balkans.” The three-and-a-half-year war there was by far the most bloody of the conflicts in former Yugoslavia, drawing in two predatory neighbors, first Serbia, then Croatia. Western deterrence of further violence and challenges to Bosnian statehood, under American leadership or with strong U.S. backing, were conducive to the democratic transformations which followed in Croatia, then in Serbia, almost two decades ago. For a decade following the war, BiH was widely assessed – for good reason – as a (relative) success story. That internationally catalyzed, but popularly perceived, success helped foster a complacency that progress toward membership in the European Union and NATO was guaranteed – only the velocity was in question. That assumption has been demonstrated to be false ever more since 2006.

BiH’s constitutional and electoral framework has been ruled deficient by reason of restricting equal rights to run and vote for office repeatedly by the European Court of Human Rights, to which BiH is bound in the Sejdić-Finci, Pilav, and Zorić cases, as well as assessed as an impediment to functionality and democratic development by the Council of Europe’s Venice Commission. None of these have been respected by the HDZ or its political ally, the SNSD, or were weaponized into a political hostage situation as has the Ljubić case. At its root, the issue at hand is not a question of “Croat rights” or “constituent peoples” representation, but rather one deeper incumbency burrowing and self-protection of entrenched elites; a manifestation of a far broader, deeper, and longer-running problem. The politicization of the three international judges on the BiH Constitutional Court is a new and dangerous precedent.

This needs to be seen in tandem with the sustained assault on BiH constitutional, judicial, and state structure which has been mounted by the leadership of the Republika Srpska, one of the country’s two “entities.” The US rightly sanctioned RS President Milorad Dodik over a year ago for his referendum in defiance of a Constitutional Court ruling; unfortunately, our European allies did not follow suit – but still could. While there is no shortage of culpability among the full spectrum of BiH political elites, the fact remains that the alliance between Dodik and HDZ BiH leader Dragan Čović has steadily subverted all the progress achieved in the first decade after the war (at massive taxpayer cost) with the aim of effectively carving out more secure feudal fiefdoms of absolute control, ultimately leading to state collapse – which *could not* be peaceful under any foreseeable circumstances. This demands resistance.

The escalating challenge to BiH's sovereignty and integrity that we have witnessed over the past decade or so has brought out the worst in both Belgrade and Zagreb, which both are involved in Bosnia's internal politics to a degree not seen since the war. In fact, all the nationalist agendas unfulfilled during the war, foreign and domestic, are being pursued without restraint. BiH is now – and has been for over a decade – a rules-free environment. BiH and the wider region are suffering from deterrence failure; a bill we have yet to pay for, but one that *will* come due, should our policy and posture not soon change. For Bosnia and Herzegovina's current incarnation and configuration have a "made in America" label on them; our interest in maintaining U.S. credibility and European security remain as valid as they were nearly a quarter century ago. Failure in BiH will rightly be seen as an American failure, despite other contributing factors.

The deeper encroachment into the Western Balkans of malign, illiberal powers such as Russia, Turkey, the Gulf States, and China which many have highlighted in the past months, are symptoms of a more fundamental problem. Simply put, the widely held presumption of a decade and a half ago – that the "carrots" of potential EU and NATO membership would induce reforms which would yield self-sustaining representative and accountable democratic governance in the Western Balkans have proven insufficient to that task. Bosnia – but not just Bosnia – demonstrates that such positive inducement alone is not enough. The leadership class that emerged from the Balkan wars – and in Bosnia's case, co-designed their own political ecosystem in the Dayton Peace Accords – have clearly determined that their interests are better served by not sincerely engaging in the difficult reforms required to join the EU and NATO. The question is why.

I think there are really two basic potential explanations. The first is that these leaders simply do not understand the potential upside – that this is a political education problem. The second is that they do grasp the benefits on offer to their countries, but they have done a cost-benefit analysis and have determined that their own interests are best served – and their perquisites of power preserved – in another fashion. I believe the latter is far more convincing.

Bluntly put, Bosnia and Herzegovina's political elite constitutes a political-business-organized crime-media nexus which can currently a) keep what they stole, b) remain positioned to keep stealing, and c) remain unaccountable politically *and* legally. Nothing that the European Union can offer the country is better – *for them and their business model* – than that. It's just rotten luck for the country's overwhelming majority. While the ethnic political elites may compete for relative territorial and economic dominance, configuration of the state, or whether there should even be a state at all, they can all agree on those basic elements of BiH's political operating system. As they have demonstrated for almost three decades, political leaders of all stripes are unconcerned with popular suffering, unless it poses a direct threat to them, as it briefly did in February 2014. Coercing popular resignation and acquiescence is sufficient to maintain control, with all its benefits.

One might ask "how does this work?" Why would voters continue to elect leaders who so blatantly abuse the public trust and limit their own horizons? Political powerbrokers in BiH (and not just there, but regionwide – and beyond) have two main tools at their disposal: patronage and fear. These form a potent cocktail, given the size of the public sector relative to the overall economy, the

absence of a functional social safety net, and the ambient but palpable threats of destitution, dispossession, or worse.

To give one relatively prosaic example of the real-life mechanics, if Uncle Jovan, (or Josip, or Jusuf) works for the government in any capacity – even in maintenance – he is the sole breadwinner for his family, and one is unconvinced one’s vote is secret (as is the case), would one really vote against the powers-that-be? One might stay home wishing a pox on all options on the menu, as roughly half the electorate does, but it is unlikely that family would take that risk. And, generally, they do not. That is hardly the spirit of “consent of the governed,” despite the superficial respect for its forms. Understanding this dynamic is the key to squaring the almost universal popular disdain expressed by BiH’s citizenry (and documented in polling) across the board toward political elites and the remarkable durability of the country’s political class since the war, job security that – outside of Belarus – is unrivalled in Europe.

The ugly truth is that the incentive structure of the Dayton constitutional/political system is *an evolutionary dead-end*; a perfect environment for the apex predators who were present at its creation (or their political successors). Absent the external enforcement, pressure, and deterrence that attended its first decade with American focus and muscle, it defaults to precisely what we see today: slow but inexorable and accelerating dissolution of the state, attended with ever more open and shameless corruption, abuse of power, and generation of fear. Fear is potent, because the potential for significant violence is recognizably real to Bosnia and Herzegovina’s citizens. All the ingredients for organized violence, or escalation of a violent interethnic incident into organized violence, are present. The fact that such bloodshed could not rise to the levels seen from 1992-1995 should not engender complacency.

Even uglier is the reality that EU-led Western policy, to which the U.S. has subscribed, has enabled such malign behavior, effectively rewarding it through appeasement: cutting corners on standards, bankrolling political irresponsibility in the hope of buying stability and security. In fact, we have only been renting quiet – for now. The reality is that we have been operating in a very similar fashion to BiH’s own citizens: enablers, for fear of the alternative. But as the party that holds the greatest leverage, our failure to confront this challenge is unjustified and all the more culpable.

Regarding NATO, which ensured the peace in BiH since the war, progress toward membership with a Membership Action Plan has been stalled because of Republika Srpska’s unwillingness to allow registration of military property at the state-level. No longer should such intransigence be allowed to impede this process. But the reality is that BiH will not be able to convince NATO members to accept it as a viable ally without a fundamental reconstruction of its governance structure and decisionmaking mechanisms.

Bosnians and Herzegovinians of all self-identifications (and there are many more than the “constituent peoples” straitjacket allows to bloom) are far more reasonable than we, and they themselves, give them credit for. Given the amount of bloodshed, displacement, and trauma experienced in 1992-1995, one would think more acts of vengeance would have occurred. It’s not for lack of *means* – BiH is a country with an average of one firearm per household, many of which would be illegal even under American law. Not for lack of *motive* – most of the violence in the war

was up close and personal. People generally know who did what to whom. And there is no lack of *opportunity* – people can travel freely should they want to exact vengeance. So why is such violence so infrequent as to be almost unheard of? As someone fortunate enough not to have lived through a war, I can only venture an educated guess: people saw the social fabric unravel once, and it was bad enough the first time – they don't want to go back there. One can scarcely imagine a more restrained, reasonable mindset given the circumstances. We Americans kill each other for much less.

Furthermore, there are few illusions left among BiH citizens about the nature of the war and its political aftermath, despite understandably different perspectives owing to their personal experiences. BiH citizens across ethnic lines recognize now that *they lost* the war. The political elites in their ubiquitous black Audis were the *sole winners*. People are reminded of this fact *daily*, in the most humiliating fashion.

Like a broken leg poorly set in triage, Dayton's constitutional political incentive structure was an achievement that saved the patient but leaves her permanently hobbled. Dayton's wobbly framework must be broken to be fixed. Paradoxical as it might sound, reinvigoration of the Dayton enforcement tools makes moving beyond that flawed system possible by reducing the political leadership's ability to leverage fear. We have to enforce the bad old rules until there can be broad popular agreement on new ones. Only then can application of firm financial conditionality, never fully employed, have the desired effect – reducing the leverage of patronage on the body politic.

Even though violence has not yet erupted, the reality is that it could at any time, with the attendant dangers of malign actors (Russia and other foreign powers, radical Islamists, irredentist neighbors, etc.) supporting it, capitalizing upon it, or even instigating it for their own interests. The upcoming October general elections will raise tensions even higher. We must not remain anesthetized by complacency.

Nor should we continue the futile and self-destructive policy of addressing potential security risks with economic leverage alone, more deeply entrenching the protection racket which currently prevails. The time to act to deter and prevent such violence and further regression – and enable bottom-up progress – is now.

So much for diagnosis, what is to be done?

- 1) Arresting the downward spiral by re-invigorating Dayton's enforcement tools – a potent military deterrent force and a credible international High Representative. The U.S. could readily assemble pan-Western support for such a policy, if we are willing to lead. In terms of force requirements, it is hard to gainsay the last such assessment by former Deputy Supreme Commander of Allied Forces in Europe (DSACEUR) Gen. John McColl at the beginning of this decade – a brigade, upwards of 3,000 troops, is necessary to fulfill the safe and secure environment mission legally required in Dayton. The current force is under 20 percent of that size. The U.S. should not be the sole provider of forces. Demonstrated will to commit a significant proportion of the force in the most strategic areas and likely flashpoints – Brčko and Mostar – prior to the October elections would challenge our closest allies to provide the

remainder. There is also no reason that the next High Representative cannot be an American.

The civilian enforcement mechanism for Dayton – the international High Representative – is equally important, and equally moribund at present. Maintaining the Office of the High Representative only as a legal placeholder, rather than a vital and potent element of the country's constitutional architecture, pending a self-sustaining solution, as we have for the past decade has been a major accelerant to the ongoing downward spiral. Nominating and promoting an American High Representative as part of an overarching strategy is essential. A person capable of restoring the credibility of Dayton's civilian enforcement mechanism, would possess political gravitas, respect among our European, Canadian, and Japanese allies, and the will to take a hands-on approach toward creating the conditions under which the need for an international High Representative would be obviated.

Neither of these elements alone is sufficient to restabilize the situation. They only work in concert. Nor alone do they constitute a strategy – but they are essential elements of a potentially successful one.

- 2) That highly controversial Constitutional Court ruling in the Ljubić case demands a one-time only compromise regulation, undertaken to respect the narrow ruling (e.g., the House of Peoples alone), so as to allow the election and government formation to go forward. The U.S. should lead a transatlantic effort to press hard, including naming and shaming, to get the situation resolved in this fashion – and be prepared to accept the reality that such a solution may not be achieved.

But the time is long since due to address the broader structural impediments to accountable democracy entailed in the Dayton constitutional and electoral system. A commitment to begin this process must be part and parcel of any stopgap arrangement on the House of Peoples – or a failure to achieve one.

- 3) The *strategic goal* for the US, EU and other Western allies on the Peace Implementation Council needs to be arriving at a governance system that allows for functional democratic representation, accountability, and good governance. This needs to be the post-election focal point of American policy, for which we need to begin preparing, *now*.

While the shape of such a system must emerge from BiH citizens and gain supermajority support of each self-defined group, the initiative for catalyzing this necessary societal discussion and the fostering of a constituency for an organic, popularly legitimate system to replace the deficient Dayton structures can and must be undertaken by the country which brokered Dayton and drove its implementation for a decade: the United States of America. In my own view, this fundamental change should lead to directly elected legislators onto whom citizens could project their own concerns and to whom they could make their displeasure felt. At present, beyond the municipal

level, there is no such accountability. That level of governance, therefore, ought to be the elemental building block for representative governance in a citizen/voter-centered BiH.

There is a deep popular hunger for a rules-based political system and society in Bosnia and Herzegovina; this is fully compatible with publicly accountable collective protections, and with direct electoral representation. Our current posture makes it nearly impossible for those citizens who already clearly want – or could be convinced to support – something better to mobilize and get traction. These are America's true friends in BiH, across the country.

While external actors like the U.S. cannot fix Bosnia and Herzegovina, we can create far better conditions for a democratic and accountable Bosnia and Herzegovina to develop and emerge. Only a country so governed will be saleable to current NATO and EU members as a potential contributing ally and fellow member. It is in our interest – and that of our European allies – we finally do so.

Brief Explanation to the Bosnia and Herzegovina Political Dynamic Charts

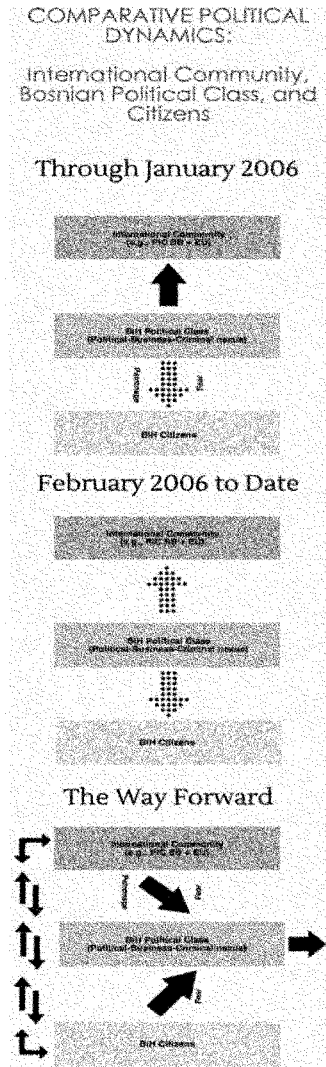


Chart 1 illustrates the political dynamic between 1996 and 2006. While BiH ethno-political elites had leverage over “their” people through application of patronage and fear (and therefore never really had to earn consent, as it was coerced), they also had to look up to a powerful international community which could – under the terms of the Dayton Accords – annul, amend, or impose laws, even remove officials or ban them from political life for violating the terms of the peace agreement. Since politics is a for-profit enterprise in BiH, that was bad for business. Furthermore, the leverage of fear was blunted by a presumption that the West – with American muscle paramount – would deter any resumption of hostilities or attempts to dissolve the state.

Chart 2 illustrates the political dynamic in Bosnia and Herzegovina from 2006 to date. The leverage of political elites over citizens of fear is amplified, since the countervailing force of committed Western enforcement of the Dayton Accords, in their civilian and military aspects is lacking – hence dotted lines in both directions. BiH’s political elites have never been as empowered. Effectively, they operate without political or legal constraint. Furthermore, they benefit from international financial largesse, with which they rent popular consent, as a sort of tribute. The West, including the US, is effectively renting quiet from these warlords-in-waiting, who exact tribute. Our policies are built around what they will and will not accept. They are not uniquely evil, but uniquely empowered – and they take full advantage.

Chart 3 illustrates the way forward. Pressure from both above – the US-mobilized West limiting their ability to generate insecurity by disarming them of their ability to generate fear and dispense patronage, combined with pressure from below – popular demand for political accountability, representation, and a rules-based society, would force BiH’s political elites to respond and accept the need for structural change. BiH’s political elites have had ample opportunity to do the right thing for the right reasons, but have refused due to their own personal interests. They must instead be compelled to do the right thing by making all other options more painful. They must instead be compelled to do the right thing by making all other options more painful.

Mr. ROHRABACHER. Thank you very much for your testimony to all the witnesses. We are joined by Brad Sherman of California and we are going to pay him the courtesy of having the first shot at the witnesses today.

Mr. SHERMAN. Thank you. Yugoslavia shows a clash of the two great principles of diplomacy and international law, self-determination and territorial integrity. And it is not surprising that the United States is schizophrenic on the clash of these two principles since only two great wars have been fought on our territory. Leaving Dolly Madison and 1812 aside, the first launched in 1776 was a great war for self-determination and in 1861 we fought hard to preserve our territorial integrity.

There seems to be some illogic into how we applied these two principles. We were for self-determination of the individual republics of the former Yugoslavia. Then we were for the territorial integrity of those republics. When sections of the republics tried to assert their self-determination we accept with regard to Kosovo. So we did not support the territorial integrity of the Republic of Serbia; we did support the territorial integrity of Croatia and saw the ethnic cleansing of Serbs from Krajina.

We support the territorial integrity of Bosnia. We now support the territorial integrity of Kosovo when Northern Kosovo wants to secede. So it was okay for Kosovo to secede from Serbia but not Northern Kosovo to secede from Kosovo. One would think that this is all illogic and has no pattern, but there is a clear pattern. We are anti-Russian and therefore anti-Serbian and we are re-fighting the Cold War over again.

And I will point out that Russia has been equally illogical and has been pro-Orthodox Slav and anti-the other groups in the area in its behavior. How many Serbs were ethnically cleansed from Krajina? Does anyone know?

Mr. BASSUENER. I believe the figure that is most commonly talked about is 250,000.

Mr. SHERMAN. And has the West urged them to be compensated in any way or is there any chance they will get their land back?

Mr. BASSUENER. The West has definitely encouraged refugee return—

Mr. SHERMAN. Encouraged, but—

Mr. BASSUENER. Facilitated but, you know, the numbers are small.

Mr. SHERMAN. I mean has Croatia been excluded from international organizations until they make good?

Mr. BASSUENER. No.

Mr. SHERMAN. Because the West is lining up against Slavic Orthodox instinctively as an anti-Russian approach. I am going to shift to a different area. That is, Muslims in this world have been faced with genocide twice, Kosovo and Bosnia. It was the United States that bombed a Christian country twice in order to protect Muslims. Has enough been done to educate the Muslim world that the United States, hardly the oppressor of Muslims, was the decisive country, the only country to come in from, just about the only country to come in from the outside and kill people by the score, Christians I might add, in order to protect Muslims? Does the average person in Jakarta or Rabat know this?

I realize you folks focus on the former Yugoslavia, but what has been done by the Governments of Bosnia and Kosovo to send people out to buy advertising time to deal with Muslim organizations and to make sure that every mullah in the world knows that it was America that bombed Christians to save Muslims when no one else would? Does anyone know whether they—and what portion of their budget do they devote to this effort?

Yes?

Mrs. CLOYES DIOGUARDI. I would first like to, if you don't mind, Congressman Sherman, make a statement that I think is very, very——

Mr. SHERMAN. You know, I have 27 seconds more.

Mrs. CLOYES DIOGUARDI. No, I will be very quick, but you are talking about Kosovo as a Muslim nation. It is just not the case. All Albanians are——

Mr. SHERMAN. Is Kosovo a majority Muslim nation?

Mrs. CLOYES DIOGUARDI. It is majority secular Muslims living side by side and in harmony with Orthodox Christians, Roman Catholics, and Jews. So I just want to——

Mr. SHERMAN. You have dealt with me on the committee long enough to know that there is separate tradition for Sherman.

Mr. ROHRABACHER. Special rule for you for minutes of dialogue after you are done.

Mr. SHERMAN. Okay, yes.

Mrs. CLOYES DIOGUARDI. I just wanted to clarify that.

Mr. SHERMAN. Obviously throughout Europe there is a decline of religious participation, but.

Mrs. CLOYES DIOGUARDI. I just want to say the U.S. wasn't, you know, attacking a Christian nation.

[Off-microphone comment.]

Mrs. CLOYES DIOGUARDI. Oh, I thought it was, but I did push it. But the U.S. was not perceiving this, in my understanding, as an attack on Muslim nations, an attack against Christians in order to save Muslims.

Mr. SHERMAN. No, we bombed Serbs in order to save Kosovars and probably did the right thing. But it just so happens that Kosovo is part of the greater Muslim majority world whether or regardless of where people are on Friday at noon.

Mrs. CLOYES DIOGUARDI. Right, except the Albanians are Albanians first, people of faith second.

Yes, okay, just thought that——

Mr. SHERMAN. Okay. But does anybody have a comment? Has the Government of Kosovo or the Government of Bosnia-Herzegovina devoted any substantial part of its worldwide efforts to helping the United States with this problem we have in the Muslim world?

Mr. ROHRABACHER. Okay, was that a question?

Mr. SHERMAN. That is a question.

Mr. ROHRABACHER. Let's go. We have one, two, three, four——

Mr. SHERMAN. And I don't know is an acceptable answer.

Mr. TOPERICH Mr. Congressman, I think digging out a ghost of the past 20 years ago and beyond doesn't help anyone in today's hearing, but I would say all the countries of the Western Balkans opted to join the European Union. Serbia and President Vucic, he

is a positive leader of Serbia now. He was at SAIS. He was here with the Vice President Biden. He was coming well-received in Washington, DC, very often in Brussels. Serbia has made a commitment to join European Union and everybody recognizes special relationship with Russia.

In respect to all the countries, whether with the Muslim populations and Serbia has a Muslim population, Bosnia has a Muslim populations, all of these countries——

Mr. SHERMAN. Doctor, this is time to answer the question, but the question is what do the Governments of Kosovo and Bosnia do to help educate people from Rabat to Jakarta about the heroic efforts of the United States? That is the question.

Mr. TOPERICH I think these efforts, Mr. Congressman, is our role in history everywhere. Everybody talks about, everybody are grateful to the United States that they stopped the war in Bosnia-Herzegovina and Kosovo.

Mr. SHERMAN. And so everybody in Jakarta and Rabat knows, okay.

Mr. TOPERICH I believe so.

Mr. LEROUX-MARTIN. Congressman, I cannot speak on behalf of each government and namely the Government of Kosovo or Bosnia on the diplomatic steps or other steps they are taking. What I can tell you for having worked in the region is that it is absolutely clear when you walk in the streets of Pristina or even if you walk in Bosnia that the population is very grateful for the——

Mr. ROHRABACHER. Very what?

Mr. LEROUX-MARTIN. Very grateful for the role that the U.S. has played. Very often if you walk in Pristina you will recognize that statues or streets or even coffee shops are named after prominent Americans who have played a very positive role. And I would imagine if you look at the track record, the diplomatic track record of Bosnia or Kosovo that both have been very helpful in helping the U.S. in pursuing its interests on all sorts of fronts. But I cannot speak on behalf of the specific campaigns or the resources that have been invested by these governments to promote the role that the U.S. has played.

Mrs. CLOYES DIOGUARDI. Congressman Sherman, I can tell you about Kosovo. Because Albanians are so pro-American, as soon as 740 Kosovar Albanians ended up going to fight with ISIS this created enormous alarm. And the NGOs and the Kosovo Government and our Embassy and USAID in Kosovo immediately came together and began a very, very effective and dramatic program to make sure that no one else returned and to demonstrate the fact that Kosovar and Albanians in other parts of the Western Balkans would be committed to preventing ISIS from moving into Western Europe and then certainly into their own societies. It has been well established.

Mr. BASSUENER. Congressman Sherman, I think since Ms. Cloyes DioGuardi spoke about Kosovo I can speak about Bosnia. The governance system in Bosnia-Herzegovina would impede such a campaign actually being adopted because there would be difference of opinion over the American intervention. So I think that is a reflection of what we have been discussing earlier today.

Mr. ROHRABACHER. Thank you, Mr. Sherman.

Mr. Perry?

Mr. PERRY. Thanks, Mr. Chairman. Well, I think if nothing else, Mr. Sherman has—let's face it. I mean how far do you want to go back? And I think the seventh century or so might be as about the right time frame and the infractions are—well, I mean that is about where this stuff starts, right? And maybe it is not important to Americans, but is certainly important to the people that live in these places and I think it is important for us as Americans to acknowledge that it is part of the situation, right.

So, but we are where we are, right, so maybe let's talk about some tangible things. I missed something, Mr. Leroux, if I am pronouncing that correctly, in your opening statement about the electric grid. Can you elaborate what were you talking about specifically there?

Mr. LEROUX-MARTIN. Sure, Congressman, and I apologize if the analogy was not too clear. What I was trying to get at is to highlight the importance of the House of Peoples in the Federation for the entire governance structure of Bosnia. The delegates in the House of Peoples have a role to play, a crucial role to play in the formation of the government at the entity level in the Federation entity. So they are responsible to approve the president and the vice president of the Federation. They also have the responsibility to approve the cabinet, but they also have a role to play vis-a-vis the House of Peoples in the state level Parliamentary Assembly in that they are responsible to elect delegates to the House of Peoples at the state level.

And moreover, as Kurt was mentioning earlier, the presidency of Bosnia can rely, based on the constitution, on a mechanism which is called a vital entity interest mechanism which is a veto mechanism. So any member of the presidency can refer to a caucus in the House of Peoples at the Federation a decision and then block that decision to that. So the House of People, that is what I was trying to get at.

Mr. PERRY. Okay.

Mr. LEROUX-MARTIN. They are a critical node that can block—

Mr. PERRY. Yes, and I want to make sure I understand that correctly. And I think Mr. Bassuener has—am I pronouncing that—

Mr. BASSUENER. Bassuener.

Mr. PERRY. Bassuener has kind of codified it easily for Western people, right, what is the problem here. And as much as from my standpoint I don't think America wants to decide, like we want the people of Bosnia to decide, but I think you codified it correctly. They have little impetus, the people in the position, to decide to make any changes because it suits their interest to keep it exactly the way it is. We don't want to be heavy handed. I mean I think America unduly gets characterized and we get called imperialist enough as it is, right? We are just trying to help people get along and solve problems and stop the killing and so on and so forth.

So let me talk to you about a couple things. Filling the deterrent gap, let's be real specific. You are talking about troops on the ground as an impetus and would this be another NATO mission or you are saying that it is Americans?

Mr. BASSUENER. I am saying as part, certainly not a majority of such a force. Right now, just to be clear, presently, and this flows

back to the Dayton Agreement Annex 1-A, NATO was the military element of the enforcement mechanism.

Mr. PERRY. Right.

Mr. BASSUENER. So that was handed over to the European Union as of the end of 2004. It is still NATO forces, effectively, under a different flag. That force is now 600 troops. They couldn't defend themselves if challenged. The theory is that they would be reinforced from without by air. That might take time and by then you are not deterring you are reacting. So as I said, all the elements for potential violence are there.

In terms of weapons it is roughly one per household in terms of average firearms ownership or possession and this is stuff that would be illegal under American law to put it clearly. It doesn't get used, which it speaks to the forbearance of your average Bosnian of every flavor and stripe, but it could be. So yes, the deterrent number the DSACEUR, Deputy NATO chair, had put forward was a brigade which is roughly 3,000 to 4,000 troops, to actually fulfill that role. I think a battalion of American troops as a challenge to our other NATO allies to fill that gap would be important particularly in Brcko and Mostar which are the most likely ethnic flashpoints and we don't need a new mandate for that. We have it.

Mr. PERRY. And that is why you picked Brcko and Mostar just because of the specific—

Mr. BASSUENER. That is where, it could kick off in a lot of other places. Brcko is the hinge which is the circuit breaker of any attempt at secession by the Republika Srpska because it is not territorially contiguous if that is not possessed. And that is why in RS Government maps it is part of the RS.

Mr. PERRY. Right. It is part of it, right.

Mr. BASSUENER. And Mostar because of the ethnic divide there.

Mr. PERRY. So this is kind of, there will be I think a long answer to a short question, you know, responsible governance where the citizens are tied to the person that they elect and more importantly the elected official is tied to the citizen, you seem to have a lot of answers or least a lot of thoughts about answers. How do they get to that point?

Mr. BASSUENER. Well, you mean how do we get from the blockage of the political elites to getting to a system that is actually responsible to citizen—

Mr. PERRY. How do they change the system? You keep on saying "we," right.

Mr. BASSUENER. Yes, yes. No, that is fair. I mean—

Mr. PERRY. I don't know if we want to be involved if we don't have to be, right?

Mr. BASSUENER. Well, we—our best value added, let's be intellectually honest, we can't fix Bosnia. What we can do is create more conducive conditions for Bosnians who do want to fix Bosnia to get traction. Right now, the Daytonist system is an initiative-destroying machine and the two tools of patronage and fear are heavily amplified in the hands of the political elites and they work as a package deal. That is why the public sector is so important because you are not going to vote against the powers that be if you are afraid of losing your job and you are not sure you voted secret. It is very integrated. By taking fear out of that equation or at least

radically reducing it by making clear to everybody violence is off the table, right now that is not the case. Everybody's worst fear now is feasible in a way that it was not in 2006.

So simply doing that and making clear we are going to enforce the bad old rules until there are new rules and try to catalyze that is, it would be an enormous help to moving forward. I think there is a potential constituency for a very different sort of Bosnia-Herzegovina, to be honest, which needs to involve a critical mass, a supermajority of each self-defined group which, as the chairman noted, is more than three.

So that would be the mechanics of it by declaring we are going to enforce Dayton, we are not going to allow violence, and you need to move toward something better to ever be able to be functional or a member of our clubs.

Mr. ROHRABACHER. Well, all right. We have been marking time, a little time for Mr. Meeks to come back, but I will just move forward and hope that they get back in time for his input.

First of all, let me just note, and again with the first witness we had a good interaction there. I do believe that the long-term idea that I think is dominating our abilities to function is the idea that all of these people are going to be in the EU and we are going to be able to walk away. They just, this whole—and I, as I say, my vision of what is going on in Europe is that the EU is disintegrating and it will not be there to provide this kind of solution. So maybe we can try to focus on and as we have done here, what we can do to make these groups who live in proximity to each other not activate themselves into killing each other. And we have, I mean the Bosniaks then are basically Muslim people like in Albania but they are not Albanian; is that correct? Do they speak Albanian, the Bosniaks? What language do the Bosniaks speak?

Mr. BASSUENER. Serbo-Croatian.

Mr. ROHRABACHER. Serbo-Croatian, okay. And the Serbs speak Serbo-Croatian and the Croatians speak just Croatian. No? Okay. Well, they all speak the same language; is that right? And they kind of look alike too, don't they? Okay. They look alike and they speak alike, hmm, okay. It seems to me that we should be able, maybe it is sort of like going next door down the street because they hear there is a ruckus down the street, but maybe you don't have the solution when you tell these guys you really shouldn't be fighting with your wife like that because you are making so much noise when, you know, that perhaps they have got to settle it for themselves. I would hope that we can come up with trying to be an honest broker.

And, you know, when I was a kid, I was like 20 years old I was driving down this road near the harbor in Los Angeles and there was this big gang of people and right in the middle of them were these guys who were fighting. I mean they were like, and it was really bloody. I mean they were sort of big thug guys and they were just beating on each other. And one guy was really, I mean he was getting covered with blood. The biggest guy was the one who was getting covered with blood. And I walked up there and I said, you know, isn't there some way we can solve this? And they punched me in the face. I remember that forever.

Luckily we did not get punched in the face and we did have some positive role when all this killing was going on back in the 1990s. I actually think the United States played a very positive role there. And the fact that they haven't been killing people and that that carnage has been at least halted, that is something that I think America can be proud of. And I do think that it probably took us an ability for, in order to accomplish that I think we probably did have to exercise the bombing of Belgrade and we did. And I think after that it stopped.

Now with that said, I will say that in the years since I have found at this point in time, after all this time has passed the Serbs seem to be open-minded toward working to some solutions. They haven't recognized Kosovo yet, but the Serbs are very willing to try to have this alteration of the border so that this area where 90 percent of the people are Serbs then become part of Serbia and another area that is about 80 percent Kosovar becomes part of Kosovo, they are willing to make that kind of an agreement and I think we should praise them for that. The Kosovars aren't, and I think the Kosovars aren't because, sorry, because our people think that getting all these people into the EU is the ultimate solution and the EU will not put up with any changes in boundaries.

So I think that maybe we should be operating independent of that kind of concept because I don't think it is going to work. One thing we are, and as we are discussing here, we are discussing whether or not a protecting individual rights and human rights in a country and then having at the same protecting group rights is going to work. Now what we have, we heard about what was going on in Macedonia. The Macedonians speak a different language. They have two languages there. That doesn't seem to be the problem in Bosnia. And, however, in Macedonia one of the big things that is causing an upheaval is that they won't let people speak that second language.

Let's note that and say, okay, are the Macedonians going to be able to get along and are they going to be able to succeed with that concept? Because the—and correct me if I am wrong, Shirley, and that is that the Macedonians while they have their language, the Albanians have this separate language and the Albanians would like to have their—if they do not have it, do the Albanians in Macedonia consider speaking Albanian to be their individual right, is my question to you, Shirley.

Mrs. CLOYES DIOGUARDI. Again Albanians—thank you. Albanians, in general, in Macedonia actually speak both languages, but I go back to the fact again that this is the one clearly multiethnic state in the Western Balkans and you can't have a 30 to 40 percent of the population being discriminated against and expect to have—

Mr. ROHRABACHER. In their language.

Mrs. CLOYES DIOGUARDI. It is not just the language. The way the language law works is for areas that are predominately Albanian would have the right to speak Albanian and use Albanian in state institutions and right now they do not.

Mr. ROHRABACHER. And they consider that to be their individual right like you would have it in—I am trying to relate this to Bos-

nia, when in Bosnia they at least don't have this language division, which I think is——

Mrs. CLOYES DIOGUARDI. Right. But also, Chairman Rohrabacher, it is not just an issue of language rights. The Dayton Accords, the Ohrid Agreement, I should say, in 2001 that was negotiated by both the U.S. and the EU with both ethnic Albanians and ethnic Macedonians brought the conflict of 2001, the armed conflict, to an end, but it also set forth a program, a plan. It is not that different, actually, from the initial idea behind the Dayton Accords for Bosnia to begin to bring about true equality and fairness in the region. That has not happened.

So we have had, you know, 18 years go by and that——

Mr. ROHRABACHER. Quality and fairness, to be fair, is a nebulous term and what we have in, I am trying to bring some lessons here from one part of the Balkans to the other part of the Balkans. That, you know, here, as I say, you have people in Bosnia who have basically the same language and they really go back a long way. They are basically part of the same cultural unit in the world even though they have different religions.

By the way when I went through the Balkans many years ago I went to a, in Croatia I went into this really burned out Catholic church. And the first thing I said, I go wow, the Muslims really came in here and destroyed this church, didn't they? Oh no, this was burned by the Serbs because they are Orthodox and these are Roman Catholics. And, you know, I will have to say that to Americans this all sounds so, how do you put it, it is almost other worldish. I mean this is not something that we recognize at all as where Catholics will be killing one another even though because one is Orthodox and one is not. But if we are going to be the force, if we are going to be the force for bringing about a peaceful world in this area, I think we, I guess we have got to understand that.

Okay, Shirley, go ahead and then I am going to let other people comment.

Mrs. CLOYES DIOGUARDI. But Chairman, just one thing, wouldn't the United States, though, recognize that we don't want discrimination against ethnic groups? And when you have a majority who is not, a huge majority that is not Slav, not ethnic Macedonian, you have that group, you have the predominance of one ethnic group making the groups, not just Albanians alone, in a second- and third-class position in their country. And I think that is something that our democratic situation would, you know, fundamentally oppose. In other words it is not just a question of people getting an individual right.

Mr. ROHRABACHER. Well, it is people being discriminated against, et cetera.

So, yes, sir?

Mr. LEROUX-MARTIN. Mr. Chairman, if I may, regarding the role of Serbia and Kosovo I wanted to bring to your attention as well that from the perspective of Kosovo, Kosovo is an independent state that has been recognized by more than a hundred countries including the United States and most countries in the EU. So for Serbia to talk about an exchange of territory, what Serbia or Belgrade is doing is they are openly talking about carving up and infringing upon the territorial integrity and the sovereignty of an

independent state. I think what is also important to understand is that Serbia and Belgrade have been involved in acts of provocation. They have sent trains with a lot of religious symbols down to Kosovo to create disruption.

So to categorize the role of Serbia I think as a helpful, reasonable contributor, my sense is that we need to take into account these actions that Belgrade has contemplated recently. And Kosovo has been involved with Belgrade in a number of conversations and discussions that were facilitated by the European Union trying to get to a number of arrangements to facilitate—not to facilitate, but to normalize their relationships. So from my perspective, Kosovo has been playing a very mature, transparent, and constructive role in trying to engage with Serbia on normalizing their relationships.

Mr. ROHRABACHER. I haven't found them very cooperative. I have been having conversations with the Serbs and Kosovars over the years and I certainly supported Kosovo in their efforts to be independent. Since then, personally I can just testify that I have found the Kosovars to be much less likely to want to cooperate. Now the Serbs on the other hand won't officially recognize anything, but they will discuss issues and try to come to compromises. At least that is my experience with them.

Let me offer Brad 2 more minutes, and 2 more minutes, and then if Mr. Meeks has not arrived—by the way you wanted to jump in, I could tell.

Mr. TOPERICH Well, Mr. Chairman.

Mr. ROHRABACHER. And give people a chance, 2 minute, or what would you like to say?

Mr. TOPERICH Well, I think in respect to the European Union I share your concerns, but, however, European Union is a strong partner for the Western Balkans at this point in time. And regardless what the hypothetical future of Europe may look like, I think it is important for us to talk to our European allies and have their strong action together with ours in fixing the Western Balkans as an unfinished business as soon as possible because enhancing the rule of law, enhancing the European standards of democracy to the Western Balkans, it's not to give geographical background, but that your Balkans are the part of Europe. You can fly 45 minutes from Sarajevo to Vienna.

It is an immediate European interest of security and this is our allies, our security and national interest that we push and Europeans to work with us stronger to put those things right in the Western Balkans. That is what I wanted to say. And another one if I may on Macedonia, I think we should strongly support Zaev government with all being said today, but they are working very seriously with Greek counterparts to address the name issue problem that Greece blocked for their joining NATO and joining European Union.

We finally have pro-European, pro-Euro-Atlantic government in Macedonia that also I think you will be pleased to hear thanks to our former Deputy Assistant Secretary of State Hoyt Yee who directly intervened with the President Ivanov and other to unblock the stalemate there and give a legitimately elected government a mandate. So they are really working and finally we have some good news from Macedonia. I think we should keep the eye on getting

this issue with the name of Greece sold so that they can move toward the EU and NATO.

Mr. ROHRABACHER. You deserved to get that in the record.

Yes, sir, go right ahead.

Mr. BASSUENER. Two quick points to follow up, first, on the European Union, I definitely think that catalyzing a common Western position because we have been atomized. There has been a transatlantic divide in our posture and our posture and approach toward the region which not just malign actors from the outside, but mischievous actors within the Western Balkans have taken full advantage of. Catalyzing that position is going to take American leadership, I think it will be welcome in many corners.

Second, very quickly on Macedonia that is the only relatively good news story in the region, in my view, for the past year is the transition last year. There is a lot left to do. Sasha has mentioned the name issue regarding NATO and the EU. I would add one other element, resolution of the unresolved cases of inter-ethnic violence that happened during the Gruevski regime, uncovering them in independent investigations which the government to its credit has said it wants to do, but there has been scant international enthusiasm for that. I think that is going to be essential to developing a democratic system where there can be nobody who corners the market like Nikola Gruevski had. So I just wanted to add that to the record.

Mr. ROHRABACHER. Well, thank you very much. I would give my colleagues a couple minutes to make closing remarks.

Brad, you have 2 minutes for closing.

Mr. SHERMAN. One very quick question.

Mr. ROHRABACHER. Go for it.

Mr. SHERMAN. Is the Government of Kosovo sending troops to Afghanistan or Iraq? How many?

Mrs. CLOYES DIOGUARDI. Yes, they have. I don't have the current number, Congressman. I am sorry about that.

Mr. SHERMAN. Any idea?

Mrs. CLOYES DIOGUARDI. But Albania has and—

Mr. ROHRABACHER. So has Albania.

Mr. SHERMAN. I know Albania has and Albania has accepted the MEK which took—but then there were over 700 individuals from Kosovo that joined ISIS?

Mrs. CLOYES DIOGUARDI. Yes. But there are more people who joined ISIS from England and other Western countries.

Mr. SHERMAN. Well, England is an enormously much larger country.

Mrs. CLOYES DIOGUARDI. I just wanted to point out what happened, what the response was. It was a very effective response and I think our State Department would concur, although that is not my personal—

Mr. SHERMAN. Yes. I would simply make the point our State Department asks for way too little from those who have benefited from American action. We have not asked the community of Muslims in Bosnia to send representatives from one end of the Muslim world to the other. We have not insisted that the Kosovo Government do the same. And when people look back and say why did America fail to engage in the world, the fault will not just be on

those who argued against engagement, but those who have argued for engagement and then didn't push our allies and beneficiaries for reciprocity. And the idea that asking for reciprocity is anti-engagement I think is shortsighted.

So I would hope, I don't blame Kosovo and the Muslims of Bosnia for doing less than I would like to see them do to help us. I blame a State Department that hasn't explained that whether we are dealing with a Japan that has lived under our protection in great wealth for 70 years and didn't have a single soldier on the ground in Afghanistan or whether it is Kosovo which does not have a major outreach to the Muslim community on our behalf from Rabat to Jakarta, those who ask little from our allies are setting us up for less involvement from the American people. I yield back.

Mr. ROHRBACHER. Go right ahead.

Mr. PERRY. I return to Mr. Bassuener. So I am sure you must, you are a smart guy. Troops on the ground in Bosnia seems, I don't know, a little politically untenable at the moment maybe.

Mr. BASSUENER. Unpalatable, for sure.

Mr. PERRY. So if that is the case, let's just say it is for the conversation's sake, things keep on moving toward the inevitable date without any resolution, who is going to fill the void if we don't and how will that be filled?

Mr. BASSUENER. Well, right now on the docket for reinforcement for the current force is a British reserve battalion. I definitely think they would have to be part of an on the ground in situ reinforcement.

Mr. PERRY. But that will be after the fact?

Mr. BASSUENER. That will be after the fact. That will not, I mean they could get it ahead of the curve too. There would need to be European Union unanimity on that which is not being catalyzed at present. So right now we are skating on very thin ice to be, if we are intellectually honest about it.

Mr. PERRY. So that is the friendly actor. I guess I was looking for more of the other side of the coin, if you will.

Mr. BASSUENER. Ah. I see where you are going. Look, I would not put it past other malign actors to fill voids, particularly Russia, particularly in Republika Srpska. However, again I mean if there is any place on planet Earth where you a united West, which is not united right now, has more leverage, potential leverage than the Western Balkans including Bosnia-Herzegovina specifically with the mandates that flow from the Dayton Agreement, I don't know where it is. So if that void is being filled, if that is a vacuum, that is on us.

Mr. PERRY. And I don't disagree. Describe for me if you will, if you can, what the filling of the void, whether it is Russian Republika Srpska or Turkey elsewhere, et cetera, what does it look like physically?

Mr. BASSUENER. Well, physically it could take many forms. Obviously there are things, there is Russian training of the Republika Srpska Ministry of Interior special forces going on about to open a new training center outside Banja Luka. We have seen, I mean this is purely speculative, but, you know, we are in speculative territory here. We have seen Vladimir Putin take bold moves to put

us on the back foot. That is what happened in Syria as a result of being in the doghouse for Ukraine.

Would I put it past him flying in paratroopers into Banja Luka? No, I wouldn't. Do I think it is imminent? No. Could it happen? Yes. We are not controlling the airspace the way we did immediately after the war. It is open season. This is a territory that we could secure not to predetermine a solution, but to prevent really negative solutions or degradation of the situation. We are not. That is something that could be dealt with in the immediate term and certainly should be before October as tensions rise.

Mr. PERRY. Thanks, Mr. Chair. I yield.

Mr. ROHRABACHER. All right. We will just close up with this, a couple of observations on my part. And when we talk about what is going on there now, we realize at one point when I first became a Member of Congress there were people who were slaughtering one another. You had Serbs going down into Kosovo and just saying we don't care if you want to be independent or not, you raise your head up and we are going to cut it off. And it became so intense that finally the West, the Western Europe, the United States acted. And again there are all kinds of mistakes that have been made, but I think that we can be, we should understand just the fact that we have been able to play that role in stopping that bloodshed and keeping it from reigniting all these years is a great accomplishment and it speaks well of our motives.

We have been warned that there are people who don't have those motives. They are provocateurs, the Russians and the Turks. That they maybe do not have the same motive that has motivated us and our European allies to try to get and try to calm the situation down. Maybe they aren't trying to calm the situation down, I don't know. One thing I do know that we have a horrible, if the Muslims of that part of the world right there in the Balkans, if they become a radical element on this planet, if they are radicalized into the radical Islamic movement it will be a disaster for the cause of peace, a disaster for Europe, a disaster for the United States.

And so we have to make sure, whether it is Albania or whether it is Kosovo or, you know, or whatever country we are talking about, Macedonia or whatever that those Islamic people do not feel that they are getting, that they are so unfairly treated and the situation is so bad for them that they will be susceptible to this radical Islamization that will lead them to become terrorists and killers. As we know, that type of dynamic exists in this world today. Now I hope that we have learned a lot. And it is interesting that Bosnia is the place where we can take a look at all of this as sort of in a laboratory almost to see how we can work with people, and in Bosnia working with people at close proximity who have all of these traits where Serbs and Croats, and yes, and Muslims.

And so with that said I think we have learned a lot today. I think it has been good to have Brad. Thank you for stopping in, you know, and we thank you for stopping in as well, Mr. Perry. And I thank our witnesses. I am Congressman Dana Rohrabacher and I am the chairman of this subcommittee and it is now adjourned.

[Whereupon, at 4:09 p.m., the subcommittee was adjourned.]

A P P E N D I X

MATERIAL SUBMITTED FOR THE RECORD

SUBCOMMITTEE HEARING NOTICE
COMMITTEE ON FOREIGN AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515-6128

Subcommittee on Europe, Eurasia, and Emerging Threats
Dana Rohrabacher (R-CA), Chairman

April 16, 2018

TO: MEMBERS OF THE COMMITTEE ON FOREIGN AFFAIRS

You are respectfully requested to attend an OPEN hearing of the Committee on Foreign Affairs to be held by the Subcommittee on Europe, Eurasia, and Emerging Threats in Room 2200 of the Rayburn House Office Building (and available live on the Committee website at <http://www.ForeignAffairs.house.gov>):

DATE: Wednesday, April 18, 2018

TIME: 2:00 p.m.

SUBJECT: The Dayton Legacy and the Future of Bosnia and the Western Balkans

WITNESSES:

Panel I

Mr. Matthew Palmer
Acting Deputy Assistant Secretary
Bureau of European and Eurasian Affairs
U.S. Department of State

Panel II

Sasha Toperich, Ph.D.
Senior Fellow and Director of the Mediterranean Basin, Middle East, and Gulf Initiative
Center for Transatlantic Relations
The Paul H. Nitze School of Advanced International Studies
The Johns Hopkins University

Mr. Philippe Leroux-Martin
Director
Rule of Law, Justice, and Security
U.S. Institute of Peace

Mrs. Shirley Cloyes DioGuardi
Balkan Affairs Adviser
Albanian American Civic League

Mr. Kurt Bassuener
Co-Founder and Senior Associate
Democratization Policy Council

By Direction of the Chairman

The Committee on Foreign Affairs seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202/225-5021 at least four business days in advance of the event, whenever practicable. Questions with regard to special accommodations in general (including availability of Committee materials in alternative formats and assistive listening devices) may be directed to the Committee.

COMMITTEE ON FOREIGN AFFAIRS

MINUTES OF SUBCOMMITTEE ON Europe, Eurasia, and Emerging Threats HEARING

Day Wednesday Date April 18, 2018 Room 2200 Rayburn

Starting Time 2:00 pm Ending Time 4:09 pm

Recesses 0 (to) (to) (to) (to) (to) (to)

Presiding Member(s)

Rep. Rohrabacher

Check all of the following that apply:

Open Session ☒

Executive (closed) Session ☐

Televised ☐

Electronically Recorded (taped) ☒

Stenographic Record ☒

TITLE OF HEARING:

The Dayton Legacy and the Future of Bosnia and the Western Balkans

SUBCOMMITTEE MEMBERS PRESENT:

Rep. Meeks, Rep. Sherman, Rep. Sires, Rep. Rooney

NON-SUBCOMMITTEE MEMBERS PRESENT: (Mark with an * if they are not members of full committee.)

Rep. Perry

HEARING WITNESSES: Same as meeting notice attached? Yes ☒ No ☐

(If "no", please list below and include title, agency, department, or organization.)

STATEMENTS FOR THE RECORD: (List any statements submitted for the record.)

Attached

TIME SCHEDULED TO RECONVENE _____

or

TIME ADJOURNED 4:09 pm

[Signature]
Subcommittee Staff Associate

MATERIAL SUBMITTED FOR THE RECORD BY THE HONORABLE DANA ROHRABACHER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA, AND CHAIRMAN, SUBCOMMITTEE ON EUROPE, EURASIA, AND EMERGING THREATS

Don't wait for the western Balkans to blow up again. The U.S. and the E.U. must act

By Wesley K. Clark April 11

Kosovo police block a street last month in the northern, Serb-dominated part of Mitrovica, Kosovo. (Bojan Slavkovic/AP)

Correction: An earlier version of the column incorrectly stated that three western Balkan states had joined NATO. Montenegro is also a member, along with Croatia, Albania and Slovenia. This version has been corrected.

Retired Gen. Wesley K. Clark is a former NATO supreme allied commander. He is a senior fellow at the UCLA Burke Center for International Relations and CEO of Wesley K. Clark & Associates.

It has been more than two decades since I worked with Richard Holbrooke and our team to negotiate an end to the war in Bosnia. NATO deployed and then acted to halt Serb ethnic cleansing in Kosovo.

Today, four western Balkan states (Croatia, Albania, Slovenia and Montenegro) have become members of NATO. Croatia and Slovenia have joined the European Union. Kosovo is now an independent nation. Most Americans and Europeans have mentally filed away that brutal conflict as a problem solved.

Sadly, this is far from true. Lingering political conflicts over the ethno-religious character of these nations consistently threaten to metastasize into national and regional crises, making the region a prime target for meddling by foreign powers. A combustible mix of poor governance, economic stagnation and weak democratic institutions has left a small yet significant minority vulnerable to recruitment by violent jihadists. All of this leaves the region ripe for exploitation by terrorist organizations and meddling by outsiders, including Russia, China and Turkey.

To make matters worse, the region is suffering from neglect by democracies that were instrumental in bringing the Yugoslav wars to an end. Believing that the Balkans' democratic future lay in E.U. membership, the United States largely handed over responsibility for the region's political, institutional and economic development to Brussels. Yet political inertia within the E.U. has kept Bosnia, Serbia, Montenegro, Kosovo, Albania and Macedonia waiting in the wings. And while the United States and Europe sleep, other powers are taking notice.

The Kremlin is steadily increasing its influence. The Russians are working to foment anti-E.U. and anti-NATO sentiment. They are supporting extremist groups (one of which is under investigation in Bosnia for suspected paramilitary activities) and dispensing targeted military aid. The Kremlin has also fanned the flames of ethnic division through disinformation campaigns that pit Orthodox Christian populations against Muslims, intentionally stoking the tensions that fueled the Yugoslav wars of the 1990s.

Meanwhile, Turkey and the Gulf states are also investing heavily in the western Balkans. Turkey is the third-largest investor in Bosnia, and the leader of Bosnia's main Muslim political party travels to Istanbul regularly for photo ops with the increasingly authoritarian Turkish President Recep Tayyip Erdogan.

Saudi Arabia and its neighbors in the Gulf have focused their contributions on supporting religious organizations, building new mosques and offering religious instruction to local imams. The strict Wahhabi interpretation of Islam that is often the basis of such training bears little relation to the moderate tradition that has been practiced in the Balkans for centuries, and has been tied to rising fundamentalism in the region.

An estimated 1,000 foreign fighters (primarily from Kosovo and Bosnia) have fought with the Islamic State in Syria and Iraq. Although the number of foreign fighters from the Balkans is trending downward, the environments in which these individuals became radicalized, and the vulnerabilities to recruitment among disaffected segments of the population, continue to be a concern. The problem of reintegrating returned foreign fighters poses an even more vexing challenge.

Finally, China is also seeking to augment its influence in the region. Under its "One Belt, One Road" initiative, Beijing is poised to provide the massive capital investment needed to undertake badly needed infrastructure projects in the Balkans. But as we've seen in Africa, such investment almost always comes with strings attached.

Clearly, the United States and Europe must remain committed to the western Balkans — with a particular emphasis on strengthening democratic institutions so that governments can address the needs of their citizens.

A western Balkans free-trade zone recently proposed by the region's leaders could be a step in the right direction. But such an initiative should not be viewed as a substitute for the potential guarantees to be provided by NATO and the E.U. A serious road map for E.U. accession would provide countries in the region with the incentives to make necessary political and economic reforms, increase their cooperation and address rising inter-ethnic tensions.

Of course, such efforts would need to secure popular support in order to go forward — a challenge in a region where the population remains sharply divided in attitudes toward institutions like NATO.

Yet according to one recent poll, although Bosnians of Serb, Croat and Muslim backgrounds are divided on many issues, they are united in their opposition to the Islamic State and their desire to tackle economic problems. NATO membership would be easier to sell to the region's ethnic Serbs (who tend to be pro-Russian and anti-NATO) if membership were pitched as helping to foster greater regional stability.

We can ensure that the billions in taxpayer dollars invested in this region were not wasted by supporting the work of democracy development implementers such as the National Democratic Institute and the International Republican Institute. We've seen the continued importance of this kind of work with initiatives such as the newly established Task Force on Counter-Extremism, which is helping lawmakers in Bosnia adapt to the ever-shifting challenge of violent extremism.

We have many tools at our disposal to avert the creeping destabilization in the western Balkans. Let us ensure that we do not squander the tremendous investment we have made in this troubled region, and renew our commitment to helping these fledgling democracies to achieve their full potential.



MATERIAL SUBMITTED FOR THE RECORD BY THE HONORABLE DANA ROHRBACHER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA, AND CHAIRMAN, SUBCOMMITTEE ON EUROPE, EURASIA, AND EMERGING THREATS

STATEMENT BY Dr. EDWARD S. YAMBRUSIC

Before

Committee on Foreign Affairs, Subcommittee on Europe, Eurasia, and Emerging Threats, Dana Rohrabacher (R-Ca), Chairman.

Mr. Chairman:

The title of my book: "Peace at the Price of Justice and Human Dignity" succinctly underscores the central fault-line of the Dayton Accords. The rule of justice was not presented as a good *per se*, but only as a means toward some other end, mainly peace and security. Granted the Accords stopped the slaughter, but at the same time, in an unprecedented fashion, the Accords rewarded the aggressor Serbia, whose *joint criminal enterprise* of a "Great Serbia" committed the unprecedented carnage and destruction, both in Croatia and Bosnia and Hercegovina, culminating in the most heinous crime of genocide at Srebrenica. The *joint criminal enterprise* envisioned yet another genocide of the Moslem population in the Bihac region, but, thanks to the Croatian Army, led by General Ante Gotovina, they did not succeed.

U.N. Charter reminds us that peace must be achieved in conformity with the principles of justice and international law. (*U.N. Charter, Article 1(1)*). Similarly, Dinstein, a legal scholar and an expert on War of Aggression, and Self-defense, reminds us that a peace process that ignores the underlying causes of the war or conflict (*jus ad bellum*) is just a bandage on a festering wound, that sooner or later breaks open. Likewise, he reminds us that the victims who had suffered in the course or as a result of the conflict, may seek recourse to self-help measures to vindicate their perceived rights of self-determination and individual human dignity. (Yoram Dinstein, *War, Aggression, and Self-defence*, 4th Edition, Cambridge University Press, p. 375)

The Dayton Accords created "*Republika Srpska*" and "*Bosnian Federation*", an artificial union of Bosnian Croats and the Moslem Bosnjaks. The creation of "*Republika Srpska*" was not exactly what the Serbs had in mind, nevertheless, not a bad deal, considering that they were defeated militarily by the Croatian, Bosnjak, and USA/NATO forces. Still, Bosnian Serbs practically got a State within a State with substantial territory taken from Bosnian Croats, mainly, Bosanska Posavina.

The Bosnjaks, on the other hand, to satisfy their territorial ambitions, ethnically cleansed the Croats in Central Bosnia, and, as a majority and a recognized entity, reduced the Croats to a minority with a subsidiary role in the "*Federation*". Indeed, Bosnian Croats are in a dire, precarious circumstance, facing a continuous political marginalization, threatened by two, equally dangerous ideologies- the ideology of a *Great Serbia*, and the ideology of Moslem *Fundamentalism*. The former has been the fundamental term of reference of the Serbian hegemonic politics ever since *Garasinovo "Nacertanije"* of 1843. Under the motto "*All, and Everywhere Serbs*" (*Srbi Svi i Svuda*), the ideology expressed itself in different modalities, depending on political circumstances, including the most recent infamous *SANU Memorandum* (Memorandum of the Serbian Academy of Science and Art). The latter was propagated by the late president Izetbegovic in his "*Declaration*", which envisions an Islamic State in the Balkans.

Today, the Bosnian Croats face a clear and present danger. Unfortunately, these are some of the consequences of the *Dayton Accords*. What to do now? In my view, we must proceed with the premise" that *no one wants to be a minority in Bosnia and Hercegovina*. The Republic of Croatia clearly has an important role to play in the solution, both from the standpoint of a national interest, and the constitutional obligation to protect its people in Bosnia and Hercegovina. It should work with the United States and the European Union to find a solution that will preserve the territorial integrity of Bosnia and Hercegovina, and equally protect the three constitutionally recognized peoples: Croats, Serbs, and Bosnjaks.

There are a number of proposals on the table. I am going to mention a few, so you'll get a sense of what might be a realistic solution.

A Croatian historian, Janko Bekic, proposed the establishment of a third entity as the best solution for the protection of Croats in Bosnia and Hercegovina and their national interest.

A left oriented politician, Tony Picula, disagreed. He proposed a Swiss model of "*cantonization*", that is, the cantonization of the whole Bosnia and Hercegovina.

Milorad Dodik, President of "*Republika Srpska*" proposed a division of the territory of Bosnia and Hercegovina into three separate sovereign states: *Herceg Bosna, Republika Sepska, and Bosnia*, united in a *confederate arrangement*.

The key question is: Will the Bosnjaks agree to any of the above proposals? Bakir Izetbegovic, Moslem member of the Bosnia and Hercegovina Presidency cautions that Bosnjaks would not permit union of the cantons on the ethnic basis, emphasizing that current number of cantons in the Federation must remain the same, that is, ten. Even more sensitive question is: Why would Bosnian Serbs accept an arrangement which would result in termination, and, at the most, in division of its republic?

A proposal by a Croatian journalist, Jozo Pavkovic, (Vecernji List, February 18, 2018) appears to be acceptable to the greatest number of Bosnjaks, Serbs, and Croats. The crux of his proposal is the notion that Bosnia and Hercegovina can be a functional viable state only on the formula 1+3. This would mean termination of the Federation and 10 cantons (zupanija).. The Government, that is, the governance would consist of *one state and three entities*. In his view, the national ethnic entity would strengthen the multi-ethnic state.

According to Pavkovic, the Croatian entity, which would include *Bosnian Posavina*, and other Croatian counties (opcine) would provide a connecting bridge for a unified state.

Respectfully submitted,



Edward S. Yambrusic, J.D. PhD.
International Lawyer, Consultant

MATERIAL SUBMITTED FOR THE RECORD BY THE HONORABLE DANA ROHRBACHER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA, AND CHAIRMAN, SUBCOMMITTEE ON EUROPE, EURASIA, AND EMERGING THREATS



April 18, 2018

The Honorable Dana Rohrabacher
Chairman

The Honorable Gregory Meeks
Ranking Member

House Committee on Foreign Affairs
Subcommittee on Europe, Eurasia and Emerging Threats
2170 Rayburn House Office Building
Washington, DC 20515

Re: April 18, 2018 hearing on the “Dayton Legacy and the Future of Bosnia
and the Western Balkans”

Dear Chairman Rohrabacher, Ranking Member Meeks, and Members of the
Subcommittee:

On behalf of Amnesty International (“Amnesty”) and our more than seven million
members and supporters worldwide, we hereby submit this statement for the record.

This statement summarizes the findings of an Amnesty report published in September
2017 entitled *We Need Support, Not Pity: Last Chance for Justice for Bosnia's
Wartime Rape Survivors*. The report describes how Bosnia has failed thousands of
women and girls who survived rape and sexual assault during the horrific violence of
Bosnia's 1992-1995 conflict.

Between June 2015 and May 2017, Amnesty conducted field research in Bosnia and
Herzegovina (“BiH”), interviewing 89 participants, including 25 survivors of sexual
violence whose stories are representative of many others. In compiling the report,
Amnesty spoke with associations of survivors, as well as government officials from
BiH's Parliament, Ministry of Justice, Ministry of Labor, Ministry of Human Rights and
Refugees, and other government officials. This report provides an updated

understanding of survivors' search for justice as previously detailed in numerous investigations and statements by Amnesty.

In 1992, the Socialist Republic of Bosnia and Herzegovina seceded from Yugoslavia and conflict broke out between its Muslim Bosniak, Catholic Croat, and Orthodox Serb communities. The resulting war lasted three years and was marked by gross human rights violations by all sides. The use of rape and other forms of sexual violence during the war was widespread. Rape was committed on a large scale by all parties to the conflict, although the majority of victims were Bosnian Muslims. In total, more than 20,000 women suffered rape and other forms of sexual violence at the hands of military and paramilitary forces. Many were imprisoned in so-called "rape camps," where they were enslaved, tortured, and forcibly impregnated as part of a campaign of violence and ethnic cleansing.

Our research found that, nearly two decades after the end of the conflict, BiH authorities have failed to provide support and redress to women survivors of conflict-related sexual violence. Under international law, the BiH state is responsible for guaranteeing victims' rights to justice, truth and reparation. This obligation includes equal and effective access to justice; and adequate, effective and prompt reparation for the harm suffered, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.

The government's stated commitment to reconstructing Bosnian society and rebuilding civic trust is not seen as credible by survivors of rape. While some few women have secured appropriate redress, many more have been denied the justice and recompense to which they are entitled. Their frustrated attempts to seek compensation are due to the labyrinthine and dysfunctional constitutional, judicial, and administrative structure of BiH and the country's ongoing political paralysis.

The 1995 Dayton Peace Accords brought an end to the violence and implemented a complicated power sharing agreement, dividing BiH into two semi-autonomous entities: the Federation of BiH ("FBiH"), predominantly populated by Bosnian Muslims ("Bosniaks") and Croats, and the Republika Srpska ("RS"), with a Serb majority. Brčko

District in Northern Bosnia was granted a special status and the FBiH was eventually further decentralized into ten separate cantons. Collectively, these entities are referred to as political subdivisions of BiH.

This political arrangement yielded a highly decentralized and byzantine system of justice. As a result, authorities across the country have been unable to agree to an equal standard of rights and protections for survivors of sexual violence. In BiH, the prosecution of war crimes, including the cases of conflict-related sexual violence, can take place at the state level or at the level of the state's political subdivisions. In total, 15 different courts (10 cantonal FBiH courts and 5 RS courts) operating under different criminal legislation are empowered to investigate and prosecute an accusation of war-time sexual violence.

I. Complicated Legal Processes Have Denied Justice to Survivors of Sexual Violence

Bosnia's fragmented system of governance has repeatedly resulted in the denial of justice for survivors of sexual violence. With no standardized procedure, survivors must take it upon themselves to research and navigate the byzantine legal regimen. Survivors of sexual violence interviewed by Amnesty did not know how to obtain the status of civilian victim of war, secure administrative compensation, or get psychological support.

According to the [Balkan Investigative Reporting Network - Bosnia and Herzegovina](#), the state prosecution faces over 550 unresolved war crimes cases with over 4,500 identified perpetrators and an almost equal number of anonymous perpetrators remaining at large. A reallocation process designed to redistribute cases from the Court of BiH to lower level courts has been partially successful in clearing caseloads. However, this has been stymied by the political subdivisions' limited judicial capacity and experience with witness protection. As described by one woman interviewed by Amnesty, *"Justice is too slow, or it never happens. After the war, I reported the crimes. All the men who did this to me were members of the local police ... These*

courts won't prosecute them. It seems that there will be no judgment for them in this world."

II. Limited Witness Protection Capacity Dissuades Women from Seeking Justice

The provision of witness protection and witness support in BiH has been significantly strengthened over the past years. Improvements to witness protection processes have enabled all 15 courts to facilitate witness anonymity through audio and video distortion during testimonies. Approximately two-thirds of the courts employ dedicated witness protection officers for witnesses during the course of their testimonies and offer separate facilities to ensure they are not forced to wait in the same room as their abuser. Despite these improvements, witness support is limited to the duration of the trial only. Witnesses who face harassment before or after testifying are often left to navigate the threats without external support.

Witness protection departments in courts and prosecutors' offices rely heavily on funding from the EU and the U.S. to recruit and retain staff and finance training. When BiH failed to adopt a new judicial sector reform strategy, the European Union withheld two years worth of funds provided through its Instrument for Pre-accession (IPA) mechanism. According to an [OSCE](#) report, the reduced resources resulted in the termination of many investigators and other support staff, including witness protection officers in some courts, leaving some of the core positions vacant for an extended period of time

III. Survivors Are Wrongfully Denied Compensation and Rehabilitation

Under international law, all victims of war crimes, including survivors of sexual violence, have a right to remedy and reparation from the state.

While different political subdivisions maintain their own policies on redress for civilian victims of war, BiH lacks a comprehensive statewide framework for redress. Despite several efforts to do so, the authorities failed to adopt key policy and legal documents

that sought to put in place a system to address the rights of this group in a manner consistent with international standards. In 2012 and again in 2013, the BiH Ministry of Human Rights and Refugees and the BiH Ministry of Justice sought to implement several strategies and policies that, taken together, would allow Bosnians subjected to torture and ill-treatment during the war to obtain special status and enjoy specific rights regardless of their residency in BiH. Both attempts failed to garner the political support necessary to become law. As a result, different political subdivisions of BiH take different approaches to recognizing survivors and offer different forms of reparations. Some offer none whatsoever.

Survivors also have difficulty securing compensation from the perpetrators. As of September 2017, courts in BiH have ordered perpetrators to pay compensation to survivors of conflict-related sexual violence in only eight cases. Over 20 years after being sexually assaulted, not one of the eight survivors has actually received compensation. Most often, the perpetrators lacked funds and were unable to pay. BiH does not have a solidarity fund or an alternative mechanism to provide compensation to survivors in instances where the perpetrators are unable to do so. Many of the survivors interviewed by Amnesty stated that the courts did not inform them of their right to seek compensation.

IV. Recommendations to Congress

(1) Continue providing financial and other support to strengthen institutional capacities of the judiciary in BiH to prosecute crimes under international law: The U.S. should continue to provide significant assistance to BiH by helping the country reform its judicial sector. USAID's "[Justice Project in Bosnia and Herzegovina](#)" project helps build courts' capacity, train prosecutors, facilitate enforcement of judgments, and build public trust in the judicial system. The program is slated to conclude in 2019, and Congress should allocate funding for additional judicial sector reform and technical assistance in FY2020.

(2) Encourage BiH authorities to remove obstacles that prevent survivors from seeking redress: BiH is obligated to adopt a unified pathway for survivors of

sexual violence in wartime to seek justice and compensation under the UN Convention against Torture. Such policies should define criteria for how a survivor can obtain the status of “civilian victim of war,” ensure the inclusion of survivors of conflict-related sexual violence under that status, and enumerate specific rights guaranteed to survivors throughout all political subdivisions of BiH. Congress should press the U.S. Department of State to assist and encourage BiH to reform its legal system in order to provide much-needed and much-overdue justice for survivors of sexual violence.

For more information, please contact me at dbalson@aiusa.org or (202) 509-8132.

Sincerely,

Daniel Balson
Advocacy Director for Europe and Central Asia

MATERIAL SUBMITTED FOR THE RECORD BY MRS. SHIRLEY CLOYES DIOGUARDI,
BALKAN AFFAIRS ADVISER, ALBANIAN AMERICAN CIVIC LEAGUE

The Albanian Platform—January 7, 2017

We, the representatives of the Albanian political parties in Macedonia: the Democratic Union for Integration, Coalition 'Revival with Besa', the Alliance for the Albanians, and (the Democratic Party of Albanians);

Respecting the free and democratic will of the Albanian voters expressed in the early parliamentary elections in the Republic of Macedonia, on December 11, 2016;

In the spirit of the Ohrid Framework Agreement, consensual democracy, and the need to fulfill normative obligations deriving from the constitutional amendments;

Affirming the joint programmatic and strategic orientations of the Albanians and all citizens of the Republic of Macedonia;

Committed to prosperity and long-term stability of Macedonia;

Led by the joint commitment to peace, stability, security, interethnic cohabitation, in the spirit of equality and dignity, in line with European and international conventions, religious harmony, and cooperation in the country and the region;

Determined, without any alternatives, to the integration in NATO and the European Union;

We agree to mutual support for a common political agenda that envisions the achievement of following objectives, during the next, or any other following, government mandate:

1. Achievement of full equality, in compliance with the Ohrid Framework Agreement and the Constitution

- Strict implementation of the principle of multi-ethnicity in the Constitution of the Republic of Macedonia, where the Albanians shall be recognized a nation-building people. Support for any legislation of constitutional initiative that strengthens ethnic equality for the Albanian population.
- Achievement of full linguistic equality, use of the Albanian language at all levels of governance and guaranteeing its use as a basic and constitutional right. The Constitution of the Republic of Macedonia shall determine that *"the Macedonian language and its Cyrillic script and the Albanian language and its script are official languages in the Republic of Macedonia."*
- All-inclusive debate on the flag, anthem, and state coat-of-arms of the Republic of Macedonia, so that state symbols reflect societal multi-ethnicity and ethnic equality.
- Adoption of a Resolution in the Parliament of the Republic of Macedonia with which to condemn the genocide on the Albanian people in Macedonia during 1912-1952.

2. Achievement of economic equality and societal wellbeing, especially through the equitable regional development

- Establishment of a new mechanism, in the form of a State Committee on Financing of Municipalities, for a more just decision-making with regard to government grants for municipalities' benefit.
- Creation of a Ministry for Political System and Relations among Communities, as a body responsible for the respect for the rights of the communities and to incentivize economic and societal development in disfavored areas.
- Realization of equitable representation in the security bodies, the military, intelligence [agencies], and the judiciary.
- Realization of equitable representation at all levels of central governance, as well as public agencies, or public shareholder enterprises.

3. Strengthening of the Rule of Law, as a prerequisite for the advancement of the Euro-Atlantic integration process

- Implementation of the Reform Plan, in accordance with the Skopje Agreement [Przino], the Priebe Recommendations, the Urgent Reform Priorities of the European Commission, as well as the recommendations from the High-Level Accession Dialogue with the EU.
- Support for the impartial work of the Special Prosecution [Office], without ethnic or political prejudice.
- Shedding full light on the issues and court cases of "Sopot," "Brodec," "Monster," and "Kumanovo," through an investigative committee, or an independent international body.

4. Creation of a spirit of trust in the function of good interethnic relations, as a crucial element to the political stability of the country

- Affirmative measures to ensure the financing of Albanian cultural institutions at the local and national level.
- Creation of a central institution for the advancement of the languages of the communities, which shall ensure the training of translators, editors and lecturers.

5. Resolution of the name issue, in conformity with European values and the principles of international law

- Adoption of a Joint Binding Resolution in the Assembly of the Republic of Macedonia which shall oblige the Government of Macedonia to commit to actively work toward a solution to the name dispute.
- Inclusion of Albanians in the working group for direct negotiations with Greece.

6. Good Relations With the Neighbors

- Inclusion of Albanians in the working group for direct negotiations with Bulgaria.
- Cooperation with Kosovo and Albania for the integrated border management.
- Opening of new border crossings.

7. Quick integration in NATO and the EU

Accomplishing the above points shall unblock Macedonia's path toward full integration in NATO and open negotiations for membership in the European Union.

The accomplishment of these objectives will be supervised through the establishment of a Roundtable of Albanian Parliamentary Parties.

The Roundtable of Albanian Parliamentary Parties shall function according to the principle of rotation and shall serve as a platform for the harmonization of political actions and transparent communication with Macedonia's international partners, while seeking in particular the support of the European Union and international institutions.

The Roundtable shall determine the deadlines for the accomplishment of the above-mentioned objectives, in accordance with the laws and the Constitution of the Republic of Macedonia.



MATERIAL SUBMITTED FOR THE RECORD BY MR. KURT BASSUENER, CO-FOUNDER AND
SENIOR ASSOCIATE, DEMOCRATIZATION POLICY COUNCIL

Submission of Kurt W. Bassuener
Senior Associate and Co-Founder, Democratization Policy Council and
PhD Candidate/Fulbright Scholar, University of St. Andrews

To the International Relations Committee, House of Lords

September 15, 2017

Dear Esteemed Committee Members,

This following memorandum has been drafted in response to the public call for evidence by the House of Lords International Relations Committee, following a direct inquiry by Committee staff. The views herein are my own, but are consistent with the positions taken by the Democratization Policy Council, of which I am co-founder. While I am presently a PhD candidate at the University of St. Andrews as a Fulbright scholar, writing on a topic inspired by my 11 years of residence in Bosnia and Herzegovina, the positions below have not been cleared or endorsed by either.

Great Britain has for over two decades played a deep and important role in the Western Balkans, and continues to do so. The belated forceful intervention by NATO in the war in Bosnia and Herzegovina, catalyzed with American leadership, ended the most sanguinary of the post-Yugoslav conflicts, and began the process of developing a more coherent Western approach to the entire region. While British forces, particularly at the company-level and below, often took initiative to prevent or react to war crimes, it was only two years after the war that London's policy took a moral leadership role, beginning the overdue process of conducting arrests of war crimes indictees for trial at The Hague. Since then, I have seen British policy in the region as drawing a cross-party consensus in favor of assertively preventing such crimes, laying the groundwork for functioning democratic societies which can ultimately integrate into NATO and the EU, and attempting to propel that process forward, in close cooperation with other Western actors. This was certainly the ethos I saw in action when advising Lord Ashdown in preparation for his taking on his role as international High Representative in Bosnia and Herzegovina, and later within OHR.

However, the actual vector in the region in the more than decade since Ashdown's departure from Sarajevo has been decidedly negative, despite declarative totems of progress. This may appear at odds with the narrative often proffered in Brussels and other capitals, which often point to the entry of Croatia, Albania, and Montenegro into NATO and Croatia into the EU, as well as the Serbia-Kosovo Dialogue, the EU's "Reform Agenda" in Bosnia, and so on. But below the surface of these indicators, the state of actual democratic practice and accountability, rule of law, and broad-based economic development are dire and retreating, as

reflected in a host of independently assessed comparative indicators.¹ The essential error was the presumption that Euro-Atlantic enlargement alone would impel organic and durable reform in the states of the region, based on the “big bang” enlargement in Central and Eastern Europe in 2004. Even in retrospect, with the retreat from liberal democracy most visible in Hungary and Poland, that enlargement was a success.² However, that process was an experiment which succeeded for a number of reasons, both on the demand side and on the part of the EU and NATO. The countries of the former Yugoslavia, in which political leaders had benefitted personally from the conflicts of 1991-2001, posed a much greater challenge, requiring a broader set of tools and different incentive structure.

On top of this error, shared on both sides of the Atlantic, an additional element to the EU’s vaunting of its “transformative” and “soft power” served to limit its field of vision and leverage. The invasion of Iraq in 2003 and attendant ructions within NATO and the EU led the leading continental powers and the EU institutions to append a connotation to “soft power” that Joseph Nye had not intended. Put cheekily, this could be summed up as “we don’t need to employ coercion and violence like our simpler Anglo-American friends – we have soft power.” However, what regional leaders rightly heard was “we no longer have the will to apply strong leverage or deter your worst practices.” They have acted accordingly – and have been indulged in their malpractice through undeserved declarations of progress and effective sidestepping of standards in the name of stability. The loss of Western credibility in the region has been considerable. And the stability achieved is not actual, durable, or in conformity with Britain’s professed liberal democratic values.

The winners of a string of five wars (Slovenia, Croatia, Bosnia and Herzegovina, Kosovo, Macedonia – the middle three of which collectively yielded a death toll of at least 130,000) are the political elites, which through accumulation by war now form durable political, business, organized crime, and media complexes in each country. The overwhelming majority of their citizens, including many who fought, very clearly recognize that they lost. But the West’s approach has been predicated on the delusion that they share the same interests – and that the winners actually represent the losers. They are our “partners,” according to the enlargement model, after all... The clearest indicator of popular sentiment regarding the future is the accelerating brain drain from the region. Even those with decent and secure employment are choosing to emigrate for the sake of their children. A more

1 For example, on Gini coefficients, see Zsoka Kocsan, “Being Poor, Feeling Poorer: Inequality, Poverty, and Poverty Perceptions in the Western Balkans,” *IMF Working Paper*, February 2016. Available at: <https://www.imf.org/external/pubs/ft/wp/2016/wp1631.pdf>. See also “Populists and Autocrats: The Dual Threat to Global Democracy – Freedom in the World 2017,” *Freedom House*, available at: https://freedomhouse.org/sites/default/files/FH_FIW_2017_Report_Final.pdf. Regarding corruption, the countries of the region ranked as follows in 2016: Slovenia (31), Croatia (55), Montenegro (64), Serbia (72), Bosnia and Herzegovina (83), Albania (83), Macedonia (90), and Kosovo (95).

2 The EU and NATO’s leverage to effect change of applicants ends upon their entry. The unwillingness to demand Croatia end territorial disputes with Bosnia and Herzegovina was therefore a missed opportunity for NATO and the EU. Since entering the EU, Zagreb has involved itself ever more deeply – and detrimentally – in BiH’s internal affairs. See Bodo Weber and Kurt Bassuener, “Lost in Transition? Croatia’s Policy Toward Bosnia and Herzegovina,” *DPC Policy Note*, November 2015. Available at: <http://www.democratizationpolicy.org/pdf/DPC%20Policy%20Note%2012%20Croatia%20s%20BiH%20Policy.pdf>

damning indictment of local leaderships, economies, and by implication our policies, can scarcely be imagined. The hollowness of democracy and capitalism in the eyes of large swathes of the local populations owes to applying the terms to blatantly self-serving behavior by leaders. This cynicism provides a wellspring for populism, nationalism, and other forms of radicalization. The trend toward authoritarian rule has been manifest not only in Serbia and Macedonia, as well at the sub-state entity of Republika Srpska in Bosnia and Herzegovina, but also within the club, in Croatia.

The vacuum which opened over the past decade because of the West's bureaucratic autopilot – in which Britain (often with some discomfort) participated – has allowed the increased regional leverage of external actors. Russia is the most obvious and immediately threatening of these. Up until the invasion of Crimea and launching of its war in eastern Ukraine, Russia could play opportunistic spoiler in the Western Balkans, abetted by Western disunity and differentiation in threat perceptions. This was most pronounced in Bosnia. But it was manifest throughout the region. Following Crimea, Moscow shifted into a much higher gear to being an active disruptor: first encouraging separatist adventurism by Republika Srpska President Milorad Dodik in Bosnia and Herzegovina, then moving to support the increasingly nationalist and authoritarian regime of Nikola Gruevski in Macedonia, and most spectacularly in the attempted coup in Montenegro a year ago. In all these cases, Moscow has aligned its talking points and policies with Belgrade, creating a visible alignment of political players opposed to (in word and/or deed) to NATO and EU enlargement. From 2014 on, Russian Foreign Minister Sergei Lavrov made clear that it sees Euro-Atlantic integration – not just NATO – as a “provocation.”³ Serbia's government, despite claiming ambitions to join the EU and being a candidate for membership, refuses to align with the Union on sanctions against Russia – and appears implicated along with Moscow in the October 2016 coup attempt in Montenegro. It also seems, most worryingly, to be collaborating closely with Moscow in efforts to subvert Macedonia's new, fragile coalition government led by Prime Minister Zoran Zaev.

Turkey, ever more deeply authoritarian and under the unchecked paranoid and abrasive leadership of Recep Tayyip Erdoğan, has also amplified its regional ambitions and footprint, backing retrograde political, social, and religious elements in Western Balkan societies. The deepening frictions which result from Ankara's policies may well amplify these efforts.

China sees the Western Balkans as a vital economic conduit into the EU. So while unlike Moscow, it does not oppose EU or NATO enlargement (quite the contrary as for the EU), it does – as in sub-Saharan Africa, Latin America, and throughout Asia – offer alternatives to leaders who wish to avoid the stipulations of international financial institutions, adhere to democratic and human rights standards, and so on. Balkan leaders have all warmed to their ministrations.

³ See Kurt Bassuener, “EUFOR: The West's Potemkin Deterrent in Bosnia and Herzegovina,” *AI-DPC Security Risk Analysis*, Policy Note #3, November 2015, page 12-13. <http://www.democratizationpolicy.org/pdf/AI-DPC%20BiH%20Security%20Risk%20Analysis%20Paper%20Series%203%20EUFOR%20The%20West%20Potemkin%20Deterrent.pdf>

Finally, Persian Gulf autocracies have developed a far larger footprint in the Western Balkans over the past five years. This can be seen through state-directed investments, private investment (often in large property purchases and construction of exclusive resorts for Arab visitors), cultural and humanitarian investments (often with a religious angle), and a large influx of people – most numerous being new arrivals to the lower-middle class. What is unnerving is not so much the influx of people per se, but the confluence of interests driving the process: opaque investment in collusion with local political actors (with attendant corruption) and an alien influence on local and organic Islamic practice. These factors have generated considerable resentment in Bosnia and Herzegovina and Kosovo in particular – and mainline into standing anti-Muslim narratives and prejudices propagated by Serb, Croat, and ethnic Macedonian nationalists.

It is hard to conceive of a region on Earth where the West had developed a wider portfolio of policy levers and influence over more than two decades – and at great cost. The decline in Western leverage and credibility is overwhelmingly its own fault. While the challenge of the region's organic democratization and development is in many ways greater than it was a decade ago, it can be surmounted. But only with a clear-eyed view of the actual dynamics, the stakes, and active development of a popular constituency for these processes is this feasible. A desire for "stability," as reflected in the Committee's request for evidence, is understandable.⁴ But it is illusory. The Western Balkans are, despite the recent positives of Montenegro's joining NATO and Macedonia's genuine, though reversible, forward movement, regressing in the aggregate. A Western policy posture which, as with the entire Mediterranean littoral, is focused on pacification and containment, not only undercuts Britain and the West's real friends in these countries, to the benefit of its kleptocrats. It is also doomed to fail. It can only be maintained as a protection racket, effectively allying us with kleptocrats against their citizens. Maintenance of the current policy is politically and bureaucratically the easiest course. But it cannot succeed. Its threadbare character, together with the zero gravity environment which followed the Brexit vote and the Trump presidency,⁵ has encouraged all those with unfulfilled agendas to amplify and accelerate them. It has also resurrected dangerous fantasies of redrawing borders⁶ – a policy which would guarantee both violent conflict (in a far more geopolitically volatile environment than 20 years ago) and embroilment of the West – including Great Britain.

Britain's bilateral policy, along with the US, has maintained greater credibility than the "international community" as a collective as a result of demonstrating that it understands it is

⁴ See the author quoted in Judy Dempsey, "Judy Asks: Is the EU Sleeping on the Western Balkans?," *Carnegie Europe*, May 13, 2015. Available at: <http://carnegieeurope.eu/strategieurope/?fa=60069>

⁵ See Kurt Bassuener and Valery Perry, "Erratic Ambiguity: The Impact of Trump's Unpredictable Foreign Policy in the Western Balkans," *DPC Policy Paper*, June 2017. Available at: http://www.democratizationpolicy.org/pdf/DPC_Policy_Paper_Erratic_Ambiguity_Trumps_Foreign_Policy_in_W_Balkans.pdf

⁶ See former British diplomat Timothy Less advocating this dangerous course in "Multi-ethnic States Have Failed in the Balkans," *BIRN*, 16 January 2017. Available at: <http://www.balkaninsight.com/en/article/multi-ethnic-states-have-failed-in-the-balkans-01-16-2017>

willing to operate with a broader set of policy tools, including hard power deterrence. The UK's deployment of troops to Bosnia four years ago and continuing backup of the anemic EUFOR demonstrate this.

Great Britain's diplomatic credibility in the region remains potent; the Ambassador in Macedonia has been widely praised by civic activists as being direct and sincere. But Brexit has reduced the UK's leverage already in intra-EU fora, and therefore in other ad hoc coordination efforts as well. Efforts must be redoubled to compensate for this unfortunate retreat. NATO is one obvious avenue through which to pursue this. Efforts to more deeply engage with solid non-EU Atlantic partners Canada and Norway, particularly in light of the mixed signals from Washington, are essential. Canada's closing of several diplomatic posts in the region a decade ago, including in Sarajevo, where it is represented in the Peace Implementation Council, often makes them an afterthought. This is a mistake and dissipates the relative strength of like-minded capitals (which usually include Tokyo as well).

Despite Brexit, the UK has deep sunk costs and long-term interests in a democratic, open, and prosperous Western Balkan region whose states can integrate – under their own steam – into NATO and the EU. Britain's security obligations in Bosnia and Kosovo, for example, do not disappear with Brexit, as they are reflected both through NATO and bilaterally.

While the timelines and modalities – even certainty – of Brexit remain open questions, this need not, and must not, impede Britain's assertive engagement and collaboration with its democratic and developed allies and partners on both sides of the Atlantic in the Western Balkans. The UK's less doctrinaire and more practical posture, reflected across party lines for two decades regarding the region, is more vital than ever before. For all these countries desperately need – and had citizens actively calling for – rules-based societies and actual representation. Britain has a great deal to offer.

Following the German election, in which Chancellor Angela Merkel seems poised to be the victor, a wholesale reassessment of EU's operating system and policy portfolio is necessary – catalyzed by last year's Brexit referendum. There is widespread and vocal recognition that strong cooperation between the UK and the EU on security, defense, and rule of law is necessary, regardless of Brexit's functional arrangements. The Western Balkans provide an ideal venue and platform for this this cooperation. Furthermore, London can act as a catalyst for the long-overdue reassessment of the West's stale, unimaginative, and unconvincing policy posture, both through its continuing membership of the EU and NATO. Such an initiative, I am confident, would be welcomed by Ottawa and Oslo as a joint endeavor – jointly proposing such a wholesale reassessment to NATO and EU allies. This ought to be launched in Autumn 2017.

The West cannot fix the Western Balkans on its own; the best it can do is use its still-massive leverage and to create an environment in which those citizens of these countries who do want rules-based societies and systems can gain traction toward that end. While the full panoply of policies and assets to be employed is perhaps a subject for another memo (DPC has proposed

a consistent and full portfolio through its decade of analysis and advocacy), the basic elements include the following:

- ! Amelioration of the existential fear which forms the central pillar of the political life support system for the durable elites forged during the wars. The West once provided this through security guarantees in Bosnia, for example; absolving itself from that responsibility fueled the ongoing regression. Without the credibility of the threat of renewed conflict, political elites would have to deliver to citizens or suffer the consequences – electorally, legally, or extra-legally. Providing direct bilateral security guarantees to the Western Balkan states in their current borders against external and internal threat would also reduce the room for maneuver of adversarial geopolitical actors, particularly Russia.⁷ Even NATO membership, for example, cannot replace the Chapter 7 UN Security Council guarantee of a “safe and secure environment” that first NATO, now the EU are obligated to provide under the Dayton Agreement’s Annex 1A.
- ! Assertively and consistently advocating rule of law, democratic standards, and the full set of obligations attendant with OSCE and Council of Europe, as well as NATO and EU membership aspirations. For too long, local elites have been graded on the curve, in the vain hope that through positive discrimination, they would be encouraged to redouble their reform efforts. This approach has had precisely the opposite effect.
- ! Britain and its Western partners must demonstrate solidarity with those who *do* espouse and adhere to our standards and values – in terms of publicly visible/audible policy support, as well as material assistance. At present, the beneficiaries of our support are, in the aggregate, the adversaries of reform and democratic accountability. This would include vigorous support to special prosecutors and courts to pursue abuse of power, corruption, and organized crime. – and where possible through existing mandates (as in Bosnia), executive personnel to directly assist.
- ! Finally, once the utility of ambient fear has been reduced through credible security guarantees, the West’s leverage through financial support – as provided through IFIs, the EU, and bilaterally – leaps in potency. At present, the West effectively buys social peace for fear of violent instability in the Western Balkans. By deterring violence unilaterally, this regressive relationship, which forestalls reform and political accountability, can end. Once their room to maneuver is limited, political elites should face much tougher conditionality from the West. The leverage of their citizens over them will correspondingly grow.

In short, while the direction of travel in the Western Balkans has been largely negative over the past decade, these countries *can* develop genuine and resilient liberal democracies, and

⁷ See Kurt Bassuener, “Filling in the Blanks: Prospects for NATO Enlargement in the Western Balkans,” *Friedrich Ebert Stiftung Südosteuropa Dialog*, July 2017. Available at: <http://library.fes.de/pdf-files/bueros/sarajevo/12902/2017-06-07.pdf>

therefore pursue credible membership applications for NATO and the EU. In fact, the only way they will achieve entry, given justifiable skepticism in Western publics, is to demonstrate the support for values and obligations of membership in these clubs is sincere, deep, and broad. Despite the ructions of Brexit, Britain can play a catalytic and leadership role in righting a policy posture with which it has rightly, but inconsistently and to date ineffectually, demonstrated misgivings. The time to act is now.



Bosnia Daily, December 5, 2017

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EXTREMISM

A Feature, Not a Bug

As I'm getting ready to leave Sarajevo for a conference to speak on the challenges of violent extremism in the Western Balkans and about my experiences in Bosnia and Herzegovina, I can't help but wonder if "violent" is the type of extremism I want and need to talk about

The last week has been like a whirlwind in the region, starting with the ICTY verdict sentencing Ratko Mladic to life imprisonment on November 22, and ending with the public and broadcasted suicide of Slobodan Praljak on November 29, moments after the judges delivered their decision confirming his conviction for war crimes. Both events can be described as theatrical, though they were urgently real; public political discussion in the region quickly evolved into an intricate and choreographed game of finger-pointing among the political leaders in the region. But what does this all mean for ordinary citizens?

The Opposite of Reconciliation

In a country so divided, and with a governing system extreme by design, can I – can we – feel safe? Every time this country goes through a dramatic event, my first instinct is to go not to media portals and "mainstream" web sites, but to social media – because that's where the people are nowadays. And the last ten days have been quite revealing. Beyond the Ratko Mladic support billboards in Zvornik, Pale and Srebrenica, the comments from ordinary citizens have been everything but rational and "reconciliatory". Reconciliation is a word that might have held some hope or idealism 20, 10, or perhaps even 5 years ago, but has become so common and so abused in the everyday narrative in Bosnia and Herzegovina that it has completely lost its meaning and purpose. Instead, we see the opposite of recon-

By Armina Mujanovic
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ciliation – if that is even a concept. Comments ranging from, "We should have let the Serbs finish the job" to "We'll be smarter next time" speak volumes, and definitely not of reconciliation. As I read them, I genuinely tried to understand where such emotions were coming from, and the sentiment(s) behind them. I have been especially curious about the age of the anonymous people writing these comments, as I assume that many of the most active users of social media are too young to have fought in the war themselves. What can account for such hatred?

Another thing that crossed my mind was – why aren't the politicians trying to calm people down? And then I go and read some of the official statements of our politicians and everything becomes completely clear. The Croat member of the BiH Presidency's statement that the sentencing of Praljak is a sentence on all Croats provides the faceless yet very real public a perfectly valid reason to be angry. The Serb-dominated entity Republika Srpska's President Milorad Dodik's statement that the Mladic verdict is a slap in the face of Republika Srpska and that Mladic will always have a place as a hero in the entity is also a perfectly valid reason for the public to be angry.

War Games

After the Mladic verdict, Serbian media reported that 9,000 Bosniaks were being trained for war in Bosnia and Herzegovina, using photos of an airsoft

game as actual photos of the training. Not long after the news broke in Serbian media, the airsoft clubs, whose photographs were used in the articles, reacted and stated that they have nothing to do with Bakir Izetbegovic and that they're just a sports association. The clubs were also surprised that some journalists are not familiar with airsoft and that they've linked it to paramilitary activities, and so they've been calling out to the public not to fall for the writings of certain media.

Hours after Praljak's suicide, a wake was organized in Mostar for the "Hague's 6" – attended by Croat leaders Dragan Covic and Marlin Raguz – sending a clear message that Herceg-Bosna still lives, at least in people's minds, and that real-world leadership is ready and willing to keep this issue alive. On the other side, the Bosniak member of the BiH Presidency, Bakir Izetbegovic, spoke out after both ICTY verdicts, both times stating that no one should hold these convicts up as heroes and that he hopes the sentences will serve as a kind of sobering episode in the country and the region. With no meaningful substance or suggestions on how to move forward, though, it seems he is trying to create political relevance for himself which, if we are being honest, he lost a long time ago with the people of Bosnia and Herzegovina.

What worries me most is that normal, ordinary citizens who don't wake up every day looking to demonstrate hate don't have a voice, and are regularly not only dismissed, but diminished by the politicians who dominate the media playground. The instrumentalization of religion, ethnicity and identity has gone far beyond political games, I fear. We are approaching the realm of war games at this point, having been groomed by the steady and intentional political boil to expect an incident while at the same time deeply hoping it doesn't happen. One of the rare cases of a positive message in the past couple of days was that of Fikri Mile Babic. When asked about the prayer event scheduled to take place before the "Hague 6" verdict, he said that a national collectivism is in power – three of them – and we know each will, without any proof, defend its own as innocent, regardless that it is not in line with



Bosnia Daily: December 9, 2017

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the truth. He also noted that it's very important to enable democracy inside these collectivism, without national leaders instructing the people on how to think.

"Without personal freedoms and personal confrontations with the truth, we can't make a civilizational step forward. If we want to become a healthy society and a democratic country, we will have to finish what The Hague started", noted Frlor Babic.

When thinking about extremism in this 21st century, the first thing that comes to mind is religious and ethnic fundamentalism, which at its core is an unholy union of doctrine married to political agenda. Over the past couple weeks in this country, I am reminded that this is everywhere, in three different, yet fundamentally similar, forms. We listen to experts talk about extremism at conferences, we read about it, we observe it and we're constantly trying to identify the drivers of it, as if the drivers are hidden or obscured, when in reality they have been lurking in plain sight for over a generation.

The Consequences

This leads me to conclude that we have to go back to the basics, to the system itself. This system, corrupt and extreme at its core, not only enables the main political players to use inflammatory language and nationalistic rhetoric, but rewards them for it. And they are able to do so without fearing any consequences, either from a public captured by patronage and neutralized by marginalization and fear, or from an "International Community" which has long remained effectively mute on these and similar issues, and instead stands on stage with the very same individuals who stoke the embers of extremism to ensure the state of fear and crisis prevents hungry and frustrated people from really challenging this reality, as thousands did in 2014, striking fear – if for only a short time – into the political class.

The consequences these players don't think about, it seems, are those left in local communities throughout Bosnia and Herzegovina by those forgotten by their governments, where unemployment is so high that ethnic sentiment is the only thing they can hold on to. This is a useful tool for manipulation, but I wonder if the politicians behind these dangerous sentiments think that they can indefinitely control the volatile emotions and dynamics they continue to stoke.

Extremism, but not violent extremism, is an everyday occurrence in Bosnia and Herzegovina. And do I feel safe? No. But that is exactly the point.

How Bosnia Is on the Frontline of Europe's Landmine Battle



More than 80,000 mines and unexploded ordnance still exist in the country, putting more than half-a-million people at direct risk, according to the International Committee of the Red Cross

euronews

He's the victim of a European war that had finished even before he was born. Aldin Karavdic, 16, was tending goats near his home in Bosnia and Herzegovina when he stepped on a landmine. He suffered severe injuries and was fortunate not to lose his right leg. He's been left disabled. The accident happened near his home in the hills around Mostar, which was heavily hit during the 1992-95 Bosnian War. Karavdic's is one of a dozen people to be injured by landmines in Bosnia and Herzegovina in the last couple of years. Nine people have been killed over the same period.

Experts say Bosnia and Herzegovina is one of the most landmine-contaminated countries in Europe following the war in the early 1990s.

More than 80,000 mines and unexploded ordnance still exist in the country, putting more than half-a-million people at direct risk, according to the International Committee of the Red Cross (ICRC).

Bosnia and Herzegovina is one of the only countries in Europe where landmine contamination is considered 'massive' because it affects more than 100 square kilometers, according to Landmine Monitor 2016. Others include Croatia, Turkey, Afghanistan, Iraq and Angola. ICRC says while progress has been made in clearing Bosnia and

Herzegovina's landmines the country has put back a deadline to be free of them from 2019 to 2025. The country's case shows that two decades since landmines were banned - a treaty was signed on December 3, 1997 - they are still killing people in Europe.

Twenty years ago an estimated 20,000 people, mainly civilians, were being killed or maimed by them every year. But since the treaty - signed by 162 states - the numbers have gradually decreased to around 6,500 annually. Erik Tollefsen, the ICRC's head of weapons contamination, said while landmine deaths have been decreased over the last two decades there has been a hike in recent years.

"The big problem today is non-state actors," he said.

"In many of these conflicts that we see on the news and in the newspapers every day we see that many more improvised landmines are being used than we are able to clear.

"Today landmines and other unexploded ordnance such as cluster munitions are presenting a huge menace in post-conflict scenarios. It's not just a hindrance to human security, but it is also preventing life from going back to normality."

NOTE: The following documents submitted for the record may be found at:
<https://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=108176>

- IDPI Proposal on BiH (submitted by Rep. Rohrabacher)
- IST-BiH Statement (submitted by Rep. Rohrabacher)
- NFCA Statement on BiH Hearing (submitted by Rep. Rohrabacher)
- CAA Letter on BiH Hearing (submitted by Rep. Rohrabacher)
- Ethnic Politics in the Balkans by Roland Gjoni (submitted by Shirley Cloyes DioGuardi)
- K-143s Municipalization Model Primer (submitted by Kurt Bassuener)
- Political Trends & Dynamics in Southeast Europe (submitted by Kurt Bassuener)
- Reflections on Efforts to Prevent and Counter Radicalization (submitted by Kurt Bassuener)
- Countering the Cultivation of Extremism in BiH (submitted by Kurt Bassuener)
- Beyond Enlargement—Why the EU’S Western Balkans Policy Needs a Reset (submitted by Kurt Bassuener)
- Croatia’s BiH Policy (submitted by Kurt Bassuener)
- CR After the New EU initiative (submitted by Kurt Bassuener)
- Retreat for Progress in BiH (submitted by Kurt Bassuener)
- The Wests Potemkin Deterrent (submitted by Kurt Bassuener)



Rep. Robin Kelly QFRs

EE&ET Subcommittee Hearing: *The Dayton Legacy and the Future of Bosnia and the Western Balkans*

April 18, 2018

Mr. Palmer:

I am concerned by the increasing risk that elections in Bosnia and Herzegovina, slated to be held this October, may not occur as planned. A 2016 Constitutional Court ruling requires the country's Parliamentary Assembly to amend the election law by May – next month – to ensure that delegates to the House of the Peoples, as well the members of the Presidency, are truly legitimate representatives of the Constituent Peoples. Rulings of the European Court of Human Rights also require changes to Bosnia and Herzegovina's election code to conform with international human rights standards.

The Parliamentary Assembly has failed to do this despite ample time and the risk of political instability on the rise. A resolution of this issue is essential for Bosnia and Herzegovina to move closer to EU and possible NATO membership. I fear that Russia may take advantage of this crisis to try to destabilize the region, as it is already trying elsewhere in the Balkans.

What will the State Department do to ensure that the Parliamentary Assembly of Bosnia and Herzegovina acts quickly to pass reforms to the law controlling elections to the House of the People and the Presidency as required by multiple court rulings so that the results of its upcoming October elections can be fully implemented?

[Note: A response to the previous question was not received prior to printing.]

